

Kansas Register

Ron Thornburgh, Secretary of State

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In this issue . . .

Page

Kansas Department of Revenue	
Notice of available publications	1372, 1373
Governor's Public Health Improvement Commission	
Notice of meeting	1372
State Conservation Commission	
Notices to contractors	1373
Department of Administration—Division of Architectural Services	
Notice of commencement of negotiations for architectural services	1373
Department of Administration—Division of Purchases	
Notice to bidders for state purchases	1375
Notice of Bond Redemption	
City of Kansas City	1375
Kansas Law Enforcement Training Commission	
Notice of meeting	1376
Notice of Bond Sale	
U.S.D. 233, Johnson County	1376
Attorney General	
Opinions 99-42 through 99-46	1377
Pooled Money Investment Board	
Notice of investment rates	1378
Kansas Department of Health and Environment	
Requests for comments on proposed air quality permits	1378, 1379
Notice of hearing on proposed administrative regulations	1380
Notice concerning Kansas water pollution control permits	1387
Kansas Insurance Department	
Notice of change in pharmacy network	1379
Kansas Department of Transportation	
Notice to consulting engineers	1381
Kansas Court of Appeals	
Summary calendar—no oral argument docket	1382
Legislative interim committee schedule	1386
Temporary Administrative Regulations	
Secretary of State	1389
Department of Administration	1390
State Corporation Commission	1391
State Employees Health Care Commission	1392
Permanent Administrative Regulations	
Department of Health and Environment	1393
Index to administrative regulations	1430

State of Kansas

Department of Revenue

Notice of Available Publications

Listed below are all the Private Letter Rulings, Opinion Letters, Revenue Rulings, Memorandums, Property Valuation Division Directives, Q&A's, Information Guides and Notices published by the Department of Revenue in August 1999. Copies can be obtained by accessing the Policy Information Library located on the Internet at www.ink.org/public/kdor or by calling the Office of Policy and Research at (785) 296-3081.

Private Letter Rulings

- P-1999-179 Question about "drive-off charges"
 P-1999-180 Clarification on charging sales tax
 P-1999-181 Request for sales and use tax ruling

Opinion Letters

- O-1999-16 Taxation of manufacturer's rebates and collection of local sales tax

Revenue Rulings No new publications

Notices No new publications

Memorandums No new publications

Property Valuation

Division Directives No new publications

Q&A'S No new publications

Information Guides No new publications

Karla Pierce
 Secretary of Revenue

Doc. No. 024307

State of Kansas

Governor's Public Health
Improvement Commission

Notice of Meeting

The Governor's Public Health Improvement Commission will meet from 1 to 5 p.m. Wednesday, October 27, through interactive video sites at the following locations: Room 855, Landon State Office Building, 900 S.W. Jackson, Topeka; University of Kansas Medical Center (Hospital Building, Room G 567), 3901 Rainbow Blvd., Kansas City, Kansas; School of Medicine (Daniel K. Roberts Center for Research Building, Wichita Room), 1010 N. Kansas, Wichita; Dodge City Community College (Student Union, Ford County Room), 2501 N. 14th Ave., Dodge City; Fort Hays State University (Memorial Union), 600 Park St., Hays; University Affiliated Program (Media Services Studio), 2601 Gabriel, Parsons.

Further information may be obtained by contacting Mary Ann Cummings, Governor's Public Health Improvement Commission, Suite 665, Landon State Office Building, 900 S.W. Jackson, Topeka, 66612-1220, (785) 296-8114, e-mail mcumming@kdhe.state.ks.us. Any individual with a disability may request accommodation in order to participate in the public meeting. Requests for accommodation should be made at least five working days in advance of the meeting by contacting Mary Ann Cummings or the Kansas Relay Center at (800) 766-3777 (TTY).

Edwin Fonner, Jr., Dr.P.H.
 Executive Director

Doc. No. 024327

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State of Kansas

State Conservation Commission

Notice to Contractors

Sealed bids for the construction of a 19,720 cubic yard detention dam, Site 226 in Nemaha County, will be received by the Upper Black Vermillion Creek Watershed Joint District No. 37 at the Watershed District Office, 404 Commercial St., Centralia, 66415, until 10 a.m. October 12. A copy of the invitation for bids and the plans and specifications can be reviewed at or obtained from the Watershed District Office, (785) 857-3347. A \$25 fee will be required for each set of plans and specifications.

Tracy D. Streeter
Executive Director

Doc. No. 024328

State of Kansas

State Conservation Commission

Notice to Contractors

Sealed bids for the construction of a 13,500 cubic yard detention dam, Site 200 in Marshall County, will be received by the Upper Black Vermillion Creek Watershed Joint District No. 37 at the Watershed District Office, 404 Commercial St., Centralia, 66415, until 10 a.m. October 12. A copy of the invitation for bids and the plans and specifications can be reviewed at or obtained from the Watershed District Office, (785) 857-3347. A \$25 fee will be required for each set of plans and specifications.

Tracy D. Streeter
Executive Director

Doc. No. 024329

State of Kansas

Department of Administration
Division of Architectural Services

Notice of Commencement of
Negotiations for Architectural Services

Notice is hereby given of the commencement of negotiations for architectural services for an architectural study and preliminary plans to redesign and remodel the building located at 401 Topeka Blvd., Topeka, for the Kansas Department of Human Resources.

Other items to be included are a new HVAC system, replacement of electrical service entrance and distribution to the building, extensive plumbing work, and elevator improvements. Additional services may be added as the project progresses.

For information regarding the scope of services, contact Ron King, Facilities Specialist, Department of Human Resources, (785) 296-2123.

If interested, an original and six copies (seven total) of the SF 255 form (plus relevant attachments of information regarding similar projects) should be submitted. These submittals should be concise, relevant to the project and follow the State Building Advisory Commission guidelines for submittal. Copies of the guidelines have previously been distributed to firms; if copies of the guidelines

are required, contact Gary Grimes, Division of Architectural Services, 1020 S. Kansas Ave., Topeka, 66612-1311, (785) 296-8899. Submittals not complying with the guidelines will be returned without consideration.

Expressions of interest and the SF 255 submittals should be received by Gary Grimes before 5 p.m. October 8.

Thaine Hoffman, AIA
Director, Division of
Architectural Services

Doc. No. 024324

State of Kansas

Department of Revenue

Notice of Available Publications

Listed below are all the Private Letter Rulings, Opinion Letters, Revenue Rulings, Memorandums, Property Valuation Division Directives, Q&A's, Information Guides and Notices published by the Department of Revenue in May, June and July 1999. Copies can be obtained by accessing the Policy Information Library located on the Internet at www.ink.org/public/kdor or by calling the Office of Policy and Research at (785) 296-3081.

Private Letter Rulings

- P-1999-116 Purchase of drugs and medical supplies—sales and use tax
- P-1999-117 How to charge sales tax
- P-1999-118 Sales tax on motel/hotel stay
- P-1999-119 Purchases either directly by clients or indirectly for clients
- P-1999-120 Tax on labor
- P-1999-121 Sales and use tax with respect to the transaction and equipment
- P-1999-122 Request a waiver of sales tax on manufactured homes
- P-1999-123 Welding rod exemption for farm machinery repair
- P-1999-124 Sales tax on driver entry fees
- P-1999-125 Sales tax on a fuel truck
- P-1999-126 Leasing of photo lab equipment
- P-1999-127 Taxability of extended warranties on central air conditioning and heating equipment
- P-1999-128 Request for sales tax exemption
- P-1999-129 Tax exempt number/sales tax
- P-1999-130 The application of sales tax to the Kansas Universal Service Fund surcharge assessed on end user revenue from telecommunication services
- P-1999-131 Employer sponsored retirement plan
- P-1999-132 Request updated letter on exemption from sales tax
- P-1999-133 Sales tax on parts, labor etc.
- P-1999-134 Exempt from sales tax for any purchase
- P-1999-135 Sales tax exemption/drilling fluids
- P-1999-136 Taxability on certain items
- P-1999-137 Dirt scraper/tax exempt
- P-1999-138 Original construction question
- P-1999-139 Re: Original and remodel construction

(continued)

- P-1999-140 Sales tax exempt status of nonprofit organizations
- P-1999-141 Re: Sales/use tax representative
- P-1999-142 Proper application of the sales/use tax statutes, i.e. freight cars and tankcars
- P-1999-143 Sales tax—Multi Level Network Marketing Co.
- P-1999-144 Sales and use tax
- P-1999-145 Questions about possible transaction that might take place pertaining to sales or use tax
- P-1999-146 Fundraising sales tax question and remitting sales tax over 365 days
- P-1999-147 Exemption for religious organizations
- P-1999-148 Exemption for nonprofit organization
- P-1999-149 Request for sales tax exemption
- P-1999-150 Sales tax/religious organizations
- P-1999-151 Sales and use tax
- P-1999-152 Sales and use tax license be required?
- P-1999-153 Taxability of gloves, used by workers, directly in the manufacturing process
- P-1999-154 Subject to sales tax in Kansas
- P-1999-155 A.) Charge sales tax for services provided
B.) How to buy and sell blank tape stock
- P-1999-156 Sales tax issue
- P-1999-157 Re: Required or not to collect sales tax
- P-1999-158 Whether exempt from paying sales tax
- P-1999-159 Is demolition work taxable?
- P-1999-160 Comprehensive list of items that would be exempt (for resale)
- P-1999-161 Sales tax exempt status on "software program" (Is this item manufacturing equipment?)
- P-1999-162 Sales tax exempt - Welding rod for farm use
- P-1999-163 Sales and use tax
- P-1999-164 Taxability of the labor and the tax rate
- P-1999-165 Food purchased for Vacation Bible School
- P-1999-166 State, county, city sales tax - collection and reporting
- P-1999-167 Statutes on postage or shipping charges by common carrier being taxable or non-taxable
- P-1999-168 Sales tax on mail order merchandise
- P-1999-169 Sales tax on medical equipment
- P-1999-170 Sales and use tax laws for KS
- P-1999-171 Request private letter ruling on "bale wrap"
- P-1999-172 Requesting a federal tax exemption letter
- P-1999-173 Can I close out my sales tax account?
- P-1999-174 Kansas sales/use tax requirements?
- P-1999-175 Sales tax on items purchased for use at the cemetery
- P-1999-176 Sales tax on natural disaster cleanup
- P-1999-177 Need to pay sales tax on machines?
- P-1999-178 Sales tax question on transfer of title and lease from Missouri to Kansas

Opinion Letters

- O-1999-13 Sales and use tax
- O-1999-14 Clarify the tax status of truck tarps to ICC carriers
- O-1999-15 Nexus ruling

Revenue Rulings

- 12-1998-2 Application of Kansas income tax to KPERS, lump sum payments (modified)

Notices

- 99-02 House Bill 2568 implementation notice
- 99-03 Oil lease working interest credit (Senate Bill 45)
- 99-05 Indirect exemption for religious organizations
- 99-06 Exemption for Class II and Class III railroads
- 99-07 Kansas farmers and grain elevators
- 99-08 Kansas estate tax liens
- 99-09 Fuel tax increase
- 99-10 1999 legislative changes
- 99-11 Notice to fireworks retailers regarding Dec. 28-Jan. 1

Memorandums**Motor Vehicle**

- Fuel Tax Historical tax rates from 1925 to present

- Property Tax 1999 legislative changes
Brief summary of all legislation enacted during the 1999 legislative session affecting property tax issues
Guidelines for implementing Section 21 of Senate Bill 45; 1999 legislative session

Property Valuation**Division Directives**

- 98-033 Listing prices and fair market value
- 98-035 Building permits and fair market value
- 98-036 Procedures and guidelines for valuing property

Q&A'S**Corporate Income Tax**

- Filing of amended tax returns, for a year closed by statute of limitations, to establish a business and job development credit

Corporate Income Tax Mineral

- Capital improvement

Severance Tax

- Mineral severance tax questions and answers

Information Guides**Vehicles**

- Info. Guide, Drivers License Office locations/times of operation

Karla Pierce
Secretary of Revenue

Doc. No. 024308

State of Kansas

Department of Administration

Division of Purchases

Notice to Bidders

Sealed bids for the following items will be received by the Director of Purchases, Room 102, Landon State Office Building, 900 S.W. Jackson, Topeka, 66612, until 2 p.m. on the date indicated and then will be publicly opened. Interested bidders may call (785) 296-2377 for additional information:

Monday, October 4, 1999

00583

University of Kansas—Natural gas services

Tuesday, October 5, 1999

00574

Norton Correctional Facility—Cleaning chemicals and supplies

00558

Lansing Correctional Facility—Elevator installation

Thursday, October 7, 1999

A-8889

Kansas Commission on Veterans' Affairs—Partial roof replacement, Treatment Building

00577

Department of Administration, Division of Printing—Graphics arts imagesetter

00581

Emporia State University—Plain paper copier machine

Tuesday, October 12, 1999

A-8557

Kansas Insurance Department—Fire alarm upgrade

00567

Department of Health and Environment—Neonatal hypothyroid screening fluorescent kits

00563

Department of Wildlife and Parks—All labor and materials to construct RV dump station, Scott City

00565

Department of Wildlife and Parks—All labor and materials to construct swimming beach, Milford

00582

Kansas State University—HPLC, gas chromatograph, spectrophotometer

00593

Fort Hays State University—Locks

Tuesday, October 19, 1999

A-8907

Department of Wildlife and Parks—Water system improvements, Clinton Lake State Park, Douglas County

Request for Proposals

Tuesday, October 19, 1999

00478

Help Desk Software for Kansas State University

John T. Houlihan
Director of Purchases

Doc. No. 024333

(Published in the Kansas Register September 23, 1999.)

Notice of Partial Redemption

City of Kansas City, Kansas

**Single Family Mortgage Revenue Bonds
1980 Series A**

Notice is hereby given that, pursuant to Section 3.01 of the Trust Indenture, \$470,000 principal amount of the bonds are being called for redemption on November 1, 1999, at the redemption price of 100 percent of the principal amount being redeemed plus accrued interest thereon to the redemption date. This notice was first published on Thursday, September 23, 1999, in the Kansas Register and the Bond Buyer.

The certificate numbers of the bonds to be partially or fully redeemed in the amounts described below are as follows:

Bearer Bonds

Due May 1, 2012 (*CUSIP Number 484770BL5)

Bearer bonds called in denominations of \$5,000 each:

2274	2626	3236	3828	4029	4041	4068	4662
5287	5349	5757	5905	6803	6804	7136	

Coupons due November 1, 1999, should be presented in the normal manner. Coupons due May 1, 2000, and all subsequent coupons must be attached to bonds called for redemption.

Registered Bonds

Due May 1, 2012 (*CUSIP Number 484770BL5)

Registered bonds called in the amount indicated below:

R577	\$5,000	R640	\$10,000
R658	\$5,000	R663	\$5,000
R673	\$370,000		

Payment of the redemption price of the bonds to be redeemed will be made at Security Bank of Kansas City, One Security Plaza, Kansas City, KS 66101. To avoid a 31 percent backup withholding required by the Interest and Dividend Tax Compliance Act of 1983, bondholders should submit certified taxpayer identification numbers on IRS Form W-9 when presenting their securities for redemption.

Notice is hereby given that on and after November 1, 1999, interest on the bonds hereby called for redemption shall cease to accrue.

*The CUSIP number is included solely for the convenience of the bondholders. Neither the issuer nor the trustee shall be responsible for the selection or the use of the CUSIP number, nor is any representation made as to its correctness on the securities or as indicated on any redemption notice.

Dated September 23, 1999.

Security Bank of Kansas City
Kansas City, Kansas

Trustee

Doc. No. 024310

State of Kansas

Law Enforcement Training Commission

Notice of Meeting

The Kansas Law Enforcement Training Commission will meet at 11:30 a.m. Wednesday, October 13, at the Kansas Law Enforcement Training Center, located 12 miles southeast of Hutchinson south of K-96 at the Hutchinson Air Base Industrial Tract (HABIT), the former Naval Air Station, or 1 mile west and 1 mile south of Yoder. The meeting is open to the public.

Darrell Wilson
Chairperson

Doc. No. 024311

(Published in the Kansas Register September 23, 1999.)

Summary Notice of Bond Sale
Unified School District No. 233
Johnson County, Kansas (Olathe)
\$35,000,000
General Obligation School Bonds
Series 1999A

(General obligation bonds payable from
unlimited ad valorem taxes)

Sealed Bids

Subject to the notice of bond sale and preliminary official statement dated September 17, 1999, sealed bids will be received by the treasurer of Unified School District No. 233, Johnson County, Kansas (the issuer), on behalf of the governing body at the district office, Administrative Center, 14160 Black Bob Road, P.O. Box 2000, Olathe, KS 66063, until 11 a.m. Thursday, September 30, 1999, for the purchase of \$35,000,000 principal amount of General Obligation School Bonds, Series 1999A. The interest rate specified for each maturity must be equal to or greater than the interest rate for the next preceding maturity. No bid of less than the principal amount of the bonds, less a discount not to exceed 0.625 percent thereof, and accrued interest thereon to the date of delivery will be considered.

Bond Details

The bonds will consist of fully registered bonds in the denomination of \$5,000 or any integral multiple thereof. The bonds will initially be registered in the name of Cede & Co., as nominee of the Depository Trust Company, New York, New York, to which payments of principal of and interest on the bonds will be made. Individual purchases of bonds will be made in book-entry form only. Purchasers will not receive certificates representing their interest in bonds purchased. The bonds will be dated October 1, 1999, and will become due on September 1 in the years as follows:

Year	Amount
2000	\$1,000,000
2001	50,000
2002	850,000
2003	50,000
2004	50,000
2005	50,000

2006	30,000
2007	30,000
2008	30,000
2009	4,945,000
2010	4,825,000
2011	4,610,000
2012	4,310,000
2013	3,980,000
2014	3,550,000
2015	3,600,000
2016	3,040,000

The bonds will be subject to mandatory and optional redemption prior to maturity as provided in the notice of bond sale and preliminary official statement.

The bonds will bear interest from the date thereof at rates to be determined when the bonds are sold as hereinafter provided, which interest will be payable semiannually on March 1 and September 1 in each year, beginning March 1, 2000.

Paying Agent and Bond Registrar

Kansas State Treasurer, Topeka, Kansas.

Municipal Bond Insurance

Financial Guaranty Insurance Company has qualified the bonds for insurance, and the premium for such insurance will be paid by the issuer.

Good Faith Deposit

Each bid shall be accompanied by a cashier's or certified check or a financial surety bond in the amount of \$700,000 (2 percent of the principal amount of the bonds).

Delivery

The issuer will pay for printing the bonds and will deliver the same properly prepared, executed and registered without cost to the successful bidder within 45 days after the date of sale.

Assessed Valuation and Indebtedness

The total assessed valuation of taxable tangible property in the school district for the year 1998 is \$1,009,158,257. The total general obligation indebtedness of the school district as of the date of the bonds, including the bonds being sold, is \$201,848,876.

Approval of Bonds

The bonds will be sold subject to the legal opinion of Gilmore & Bell, P.C., Kansas City, Missouri, bond counsel, whose approving legal opinion as to the validity of the bonds will be furnished and paid for by the issuer and delivered to the successful bidder when the bonds are delivered.

Additional Information

Additional information regarding the bonds may be obtained from the treasurer, (913) 780-7000, or from the financial advisor, Kirkpatrick Pettis, 4435 Main St., Suite 950, Kansas City, MO 64111, (816) 360-2270.

Dated September 17, 1999.

Unified School District No. 233

Johnson County, Kansas

By: Thomas O. Matthews, Treasurer

Doc. No. 024323

State of Kansas

Attorney General

Opinion 99-42

Cities and Municipalities—Licensure and Examination of Certain Contractors; Plumbing, Electrical Wiring, Heating, Ventilation and Air Conditioning—City's Ability to Impose Apprenticeship Requirement. Richard C. Dearth, Parsons City Attorney, Parsons, September 2, 1999.

K.S.A. 12-1503 *et seq.*, K.S.A. 1998 Supp. 12-1525 *et seq.*, and K.S.A. 12-1540 *et seq.*, which address the licensure of plumbers, electricians and mechanical contractors, apply uniformly to all cities and, therefore, a city may not charter out of these provisions. Moreover, an ordinance that requires a period of apprenticeship as a condition of licensure as a journeyman or master plumber, electrician or a mechanical contractor in addition to passage of the Block examination conflicts with K.S.A. 12-1509, 12-1526 and 12-1542 and is, therefore, impermissible. Cited herein: K.S.A. 1998 Supp. 12-1508; K.S.A. 12-1509; K.S.A. 1998 Supp. 12-1525; K.S.A. 12-1526; K.S.A. 1998 Supp. 12-1541; K.S.A. 12-1542. MF

Opinion 99-43

Cities and Municipalities—Planning and Zoning—Establishment of City Districts and Zones, Zoning Outside City Limit; Extraterritorial Zoning.

Amendments to United States Constitution—Fourteenth Amendment—Due Process; Vagueness. Representative Garry G. Boston, 72nd District, Newton, September 2, 1999.

A resolution enacted by the City of Newton that does nothing more than express a concern for the safety of the city's water resources and describe certain actions that the governing body may take in the future to protect the city's environment is not void on the grounds of vagueness and, therefore, does not offend the due process requirements of the 5th and 14th Amendments to the United States Constitution. Cited herein: U.S. Const., Amend. V and XIV. MF

Opinion 99-44

Waters and Watercourses—Groundwater Management Districts—District Powers; Rules and Regulations. Representative Jim Morrison, 121st District, Colby, September 7, 1999.

Groundwater management districts (GMDs) may continue, after March 1, 2000, to adopt local standards and policies as authorized by the Kansas Groundwater Management District Act as long as the standards and policies adopted are not of general application and do not have the effect of law. GMDs also may continue to develop local standards for submission to the chief engineer in accordance with New Section 12 of 1999 House Substitute for Senate Bill No. 287. For this reason, the legislation does not conflict with the authority of GMDs to adopt and enforce local standards and policies pursuant to K.S.A. 82a-1028(n). The legislation requires consolidation into rule and regulation those standards and policies of

general application that have the effect of law, and it voids those standards and policies not in compliance with this requirement. Cited herein: K.S.A. 77-420; 82a-1028; L. 1999, Ch. 130, § 12. GE

Opinion 99-45

Criminal Procedure; Kansas Code of Criminal Procedure—Arrest—Expungement of Arrest Records.

Crimes and Punishments; Kansas Criminal Code; Classification of Crimes and Sentencing—Sentencing—Expungement of Certain Convictions. Larry Welch, Director, Kansas Bureau of Investigation, Topeka, September 7, 1999.

• Amendments contained in L. 1998, Ch. 131 allowing expungement of arrest and diversion records should be applied retroactively. Cited here: K.S.A. 1998 Supp. 21-4619; 22-2410. SP

Opinion 99-46

Counties and County Officers—Hospitals and Related Facilities—Compensation and Expenses of Board Members; Payment of Insurance Premiums.

Bonds and Warrants—Cash-Basis Law—Issuance of Warrants and Other Evidences of Indebtedness Unlawful; Void Contracts and Orders; Multi-year Contract for Hospital Administrator. Michael H. Haas, Sheridan County Attorney, Hoxie, September 7, 1999.

The Hospital and Related Facilities Act, K.S.A. 19-4601 *et seq.*, vests sole authority for determining the compensation for county hospital board members in the board of county commissioners. Therefore, a county hospital board is not authorized to make payments for health insurance and compensation to its members as determined by the hospital board. Any remedies available to a county commission to force reimbursement or cessation of unauthorized payments by a county hospital board depend on the specific facts surrounding the payments and should be determined by the commission in consultation with its legal counsel. Because a county hospital board is not subject to the cash-basis law, a county hospital board may extend the hospital administrator's contract for a period of three years without violating the cash-basis law. Cited herein: K.S.A. 1998 Supp. 10-1101; K.S.A. 10-1112; 19-4601; 19-4609; 19-4610; 19-4611; 46-216; 75-4301. DMW

Carla J. Stovall
Attorney General

Doc. No. 024312

State of Kansas

Pooled Money Investment Board**Notice of Investment Rates ***

The following rates are published in accordance with K.S.A. 75-4210. These rates and their uses are defined in K.S.A. 1998 Supp. 12-1675(b)(c)(d), and K.S.A. 75-4201(l) and 75-4209(a)(1)(B).

Effective 9-20-99 through 9-26-99

Term	Rate
1-89 days	5.21%
3 months	4.87%
6 months	5.08%
9 months	5.25%
12 months	5.38%
18 months	5.62%
24 months	5.66%

Derl S. Treff
Director of Investments

Doc. No. 024309

State of Kansas

**Department of Health
and Environment****Request for Comments**

The Kansas Department of Health and Environment is soliciting comments regarding a proposed air quality operating permit. The Sterling Municipal Power Plant (City of Sterling) has applied for a Class I operating permit in accordance with the provisions of K.A.R. 28-19-510 *et seq.* The purpose of a Class I permit is to identify the sources and types of regulated air pollutants emitted from the facility; the emission limitations, standards and requirements applicable to each source; and the monitoring, record keeping and reporting requirements applicable to each source as of the effective date of permit issuance.

The Sterling Municipal Power Plant (City of Sterling) owns and operates a municipal power plant located at 333 N. Broadway Ave., Sterling.

A copy of the proposed permit, permit application, all supporting documentation, and all information relied upon during the permit application review process is available for public review during normal business hours at the KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, and at the KDHE North Central District Office, 2501 Market Place, Suite D, Salina. To obtain or review the proposed permit and supporting documentation, contact Alan Brooks, (785) 296-6281, at the KDHE central office, or Joan Ratzlaff, (785) 827-9639, at the KDHE North Central District Office. The standard departmental cost will be assessed for any copies requested.

Direct written comments or questions regarding the proposed permit to Alan Brooks, KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, 66620. In order to be considered in formulating a final permit decision, written comments must be received by the close of business November 8.

A person may request a public hearing be held on the proposed permit. The request for a public hearing shall be in writing and set forth the basis for the request. The

written request must be submitted to Connie Carreno, Bureau of Air and Radiation, not later than the close of business November 8 in order for the Secretary of Health and Environment to consider the request.

The United States Environmental Protection Agency has 45 days after the receipt of the proposed Class I operating permit within which to object to the proposed permit. If the EPA has not objected in writing to the issuance of the permit within the 45-day review period, any person may petition the administrator of the EPA within 60 days after the expiration of the 45-day review period to review the permit. Any such petition shall be based only on the objections to the permit that were raised with reasonable specificity during the public comment period provided for in this notice, unless the petitioner demonstrates that it was impracticable to raise such objections within such period or unless the grounds for such objection arose after such period. Contact Gary Schlicht, U.S. EPA, Region VII, Air Permitting and Compliance Branch, 901 N. 5th, Kansas City, KS 66101, (913) 551-7097, to determine when the 60-day petition period commences.

Clyde D. Graeber
Secretary of Health
and Environment

Doc. No. 024318

State of Kansas

**Department of Health
and Environment****Request for Comments**

The Kansas Department of Health and Environment is soliciting comments regarding a proposed air quality operating permit. Farmland Industries, Inc. has applied for a Class I operating permit in accordance with the provisions of K.A.R. 28-19-510 *et seq.* The purpose of a Class I permit is to identify the sources and types of regulated air pollutants emitted from the facility; the emission limitations, standards and requirements applicable to each source; and the monitoring, record keeping and reporting requirements applicable to each source as of the effective date of permit issuance.

Farmland Industries, Inc., Bartlesville, Oklahoma, owns and operates a crude petroleum pipeline station (Hooser Station) located at Section 13-Township 34S-Range 7E, Cowley County, Kansas.

A copy of the proposed permit, permit application, all supporting documentation, and all information relied upon during the permit application review process is available for public review during normal business hours at the KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, and at the KDHE South Central District Office, 130 S. Market, sixth floor, Wichita. To obtain or review the proposed permit and supporting documentation, contact Rasha Allen, (785) 296-1693, at the KDHE central office, or David Butler, (316) 337-6020, at the KDHE South Central District Office. The standard departmental cost will be assessed for any copies requested.

Direct written comments or questions regarding the proposed permit to Rasha Allen, KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, 66620.

In order to be considered in formulating a final permit decision, written comments must be received by the close of business November 8.

A person may request a public hearing be held on the proposed permit. The request for a public hearing shall be in writing and set forth the basis for the request. The written request must be submitted to Connie Carreno, Bureau of Air and Radiation, not later than the close of business November 8 in order for the Secretary of Health and Environment to consider the request.

The United States Environmental Protection Agency has 45 days after the receipt of the proposed Class I operating permit within which to object to the proposed permit. If the EPA has not objected in writing to the issuance of the permit within the 45-day review period, any person may petition the administrator of the EPA within 60 days after the expiration of the 45-day review period to review the permit. Any such petition shall be based only on the objections to the permit that were raised with reasonable specificity during the public comment period provided for in this notice, unless the petitioner demonstrates that it was impracticable to raise such objections within such period or unless the grounds for such objection arose after such period. Contact Gary Schlicht, U.S. EPA, Region VII, Air Permitting and Compliance Branch, 901 N. 5th, Kansas City, KS 66101, (913) 551-7097, to determine when the 60-day petition period commences.

Clyde D. Graeber
Secretary of Health
and Environment

Doc. No. 024319

State of Kansas

Department of Health and Environment

Request for Comments

The Kansas Department of Health and Environment is soliciting comments regarding a proposed air quality operating permit. Chanute Municipal Power Plant #1 has applied for a Class I operating permit in accordance with the provisions of K.A.R. 28-19-510 *et seq.* The purpose of a Class I permit is to identify the sources and types of regulated air pollutants emitted from the facility; the emission limitations, standards and requirements applicable to each source; and the monitoring, record keeping and reporting requirements applicable to each source as of the effective date of permit issuance.

Chanute Municipal Power Plant #1, Chanute, owns and operates a municipal power plant located at 219 S. Santa Fe, Chanute.

A copy of the proposed permit, permit application, all supporting documentation, and all information relied upon during the permit application review process is available for public review during normal business hours at the KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, and at the KDHE Southeast District Office, 1500 W. 7th, Chanute. To obtain or review the proposed permit and supporting documentation, contact Herbert Buckland, (785) 296-6438, at the KDHE central office, or Lynelle Stranghoner, (316) 431-2390, at the

KDHE Southeast District Office. The standard departmental cost will be assessed for any copies requested.

Direct written comments or questions regarding the proposed permit to Herbert Buckland, KDHE, Bureau of Air and Radiation, Building 283, Forbes Field, Topeka, 66620. In order to be considered in formulating a final permit decision, written comments must be received by the close of business October 25.

A person may request a public hearing be held on the proposed permit. The request for a public hearing shall be in writing and set forth the basis for the request. The written request must be submitted to Connie Carreno, Bureau of Air and Radiation, not later than the close of business October 25 in order for the Secretary of Health and Environment to consider the request.

The United States Environmental Protection Agency has 45 days after the receipt of the proposed Class I operating permit within which to object to the proposed permit. If the EPA has not objected in writing to the issuance of the permit within the 45-day review period, any person may petition the administrator of the EPA within 60 days after the expiration of the 45-day review period to review the permit. Any such petition shall be based only on the objections to the permit that were raised with reasonable specificity during the public comment period provided for in this notice, unless the petitioner demonstrates that it was impracticable to raise such objections within such period or unless the grounds for such objection arose after such period. Contact Gary Schlicht, U.S. EPA, Region VII, Air Permitting and Compliance Branch, 901 N. 5th, Kansas City, KS 66101, (913) 551-7097, to determine when the 60-day petition period commences.

Clyde D. Graeber
Secretary of Health
and Environment

Doc. No. 024320

State of Kansas

Kansas Insurance Department

Notice of Change in Pharmacy Network

Pursuant to K.S.A. 40-2,153, the Kansas Commissioner of Insurance is publishing notice that a change has occurred in a pharmacy network in the State of Kansas. Aetna U.S. Healthcare Pharmacy Network has notified the Insurance Department of the following addition to its pharmacy network:

Pharmacy Name	City	Effective Date
Price Chopper Pharmacy	Gardner	8/26/99

In addition, Aetna U.S. Healthcare Pharmacy Network has notified the department of the following termination from its pharmacy network:

Pharmacy Name	City	Effective Date
Osco Drug #8908	Olathe	8/9/99

Questions should be directed to Rebecca Sanders at the Kansas Insurance Department, (785) 296-3071.

Kathleen Sebelius
Kansas Insurance Commissioner

Doc. No. 024321

State of Kansas

Department of Health
and EnvironmentNotice of Hearing on Proposed
Administrative Regulations

A public hearing will be conducted at 10 a.m. Wednesday, December 1, in the sixth floor conference room, Landon State Office Building, 900 S.W. Jackson, Topeka, to consider the adoption of new permanent regulations concerning the Kansas Childhood Lead Poisoning Prevention Program. A summary of the proposed regulations and the economic impact follows.

The new regulations define key terms and words used in these regulations, along with general requirements for licensure of firms, certification of individuals and accreditation of training providers involved in lead-based paint abatement activities. These new regulations contain enforcement policies and work practice standards for individuals and firms. Requirements on waivers, reciprocity and grandfather provisions for previously-trained individuals also are contained in the regulations.

28-72-1. Definitions. Defines key terms and words used in the regulations.

28-72-2. General requirements for licensure and certification. Provides requirements on waivers, change of address, reciprocity and grandfather provisions for previously-trained individuals.

28-72-3. Fees. Provides a fee schedule for certification of individuals in the various professions, accreditation fees for training providers and licensure fees for businesses.

28-72-4. Training provider accreditation. Provides requirements for instructors and training managers, and information required on the application form.

28-72-4a. Curriculum requirements for training providers. Provides minimum curriculum requirements for each training course. Gives requirements for hands-on and classroom training.

28-72-4b. Training provider accreditation; reciprocity. Provides requirements and application procedures to training providers for reciprocity between Kansas and EPA or other approved state programs.

28-72-4c. Training provider accreditation; refresher training course. Provides specific requirements for training providers conducting refresher training.

28-72-5. Application for lead inspector certification. Provides requirements and procedures for individuals to apply for certification as a lead inspector.

28-72-6. Application for risk assessor certification. Provides requirements and procedures for individuals to apply for certification as a risk assessor.

28-72-7. Application for lead abatement worker certification. Provides requirements and procedures for individuals to apply for certification as a lead abatement worker.

28-72-8. Application for lead abatement supervisor certification. Provides requirements and procedures for individuals to apply for certification as a lead abatement supervisor.

28-72-9. Application for project designer certification. Provides requirements and procedures for individuals to apply for certification as a project designer.

28-72-10. Application for lead activity firm licensure. Provides requirements and procedures for business firms to apply for a lead abatement activity license.

28-72-11. Renewal of lead occupation certificates. Provides requirements and procedures for individuals to apply for renewal of certificates.

28-72-12. Re-application process. Provides requirements and procedures for individuals to reapply for certification.

28-72-13. Work practice standards; general standards. Provides documented methodologies for lead-based paint activities. Also contains a conflict of interest section.

28-72-14. Work practice standards; inspection. Provides requirements and methodologies for individuals conducting lead-based paint inspections.

28-72-15. Work practice standards; lead hazard screen. Provides requirements and methodologies for individuals conducting lead-based paint hazard screens.

28-72-16. Work practice standards; risk assessment. Provides requirements and methodologies for individuals conducting lead-based paint risk assessments.

28-72-17. Work practice standards; elevated blood level investigation risk assessments. Provides requirements and methodologies for local health departments conducting elevated blood lead level investigations.

28-72-18. Work practice standards; lead abatement. Provides specific requirements and prohibited practices for firms or individuals conducting lead abatement projects. It includes personnel and notification procedures required before and during abatement projects.

28-72-18a. Work practice standards; lead abatement; replacement. Provides specific requirements and prohibited practices for firms or individuals conducting replacement strategies during lead abatement projects.

28-72-18b. Work practice standards; lead abatement; enclosure. Provides specific requirements and prohibited practices for firms or individuals conducting enclosure strategies during lead abatement projects.

28-72-18c. Work practice standards; lead abatement; encapsulation. Provides specific requirements and prohibited practices for firms or individuals conducting encapsulation strategies during lead abatement projects.

28-72-18d. Work practice standards; lead abatement; removal. Provides specific requirements and prohibited practices for firms or individuals conducting removal strategies during lead abatement projects.

28-72-18e. Work practice standards; post-abatement clearance procedures. Provides specific requirements and prohibited practices for firms or individuals conducting post-abatement clearance procedures during lead abatement projects.

28-72-19. Work practice standards; collection and laboratory analysis of samples. Describes requirements for laboratories to analyze samples submitted by certified inspectors and risk assessors.

28-72-20. Work practice standards; composite dust sampling. Provides specific requirements and prohibited practices for firms or individuals composite dust sampling procedures.

28-72-21. Work practice standards; record keeping. Describes length of time (3 years) that records required by statute and regulation must be available for review.

28-72-22. Enforcement. Describes criteria for issuing notice of noncompliance to individuals covered by statute and regulation.

Fiscal Impact

Congress passed the Residential Lead-based Paint Hazard Act of 1992 and the EPA published the implementing regulations in the Federal Register (40 CFR) August 29, 1996, which gives individual states and tribes the opportunity to establish and operate accredited training and certification programs for lead professionals and organizations involved in abatement activities. If states do not establish lead-based paint activities programs, the EPA will administer a federal program within the state. If the EPA would have administered the training, accreditation and certification program, Kansas would lose an estimated \$109,000 a year in licensing fees.

The estimated total costs to Kansas lead activity professionals will be \$109,000 per year, based on multiplying the fee by 1/2 of current professional lead population employed in Missouri. KDHE historical data shows that Kansas usually has approximately 1/2 the health or environmental professionals working in an employment field. This fee schedule was developed using other states' fee schedules. This projected fee fund would pay for the contracting of one full-time environmental scientist and a .5 time office specialist, travel and all equipment and supplies.

Abatement construction methodologies will increase the cost of abatement projects by a variable percentage based upon the size of the project. Industry experts estimate that it may increase the cost of a project by 30-50 percent. Projects may use multiple methodologies (removal, enclosure, encapsulation and removal) during the project, all which may influence the cost of abatement.

There will be a minimal fiscal impact on state or local governmental agencies. Public agencies that perform lead based-paint activities on nonresidential dwellings are not required to be licensed. State and local health department personnel certifying for the purpose of environmental investigation of lead poisoned children shall be exempted from licensure fees.

The time period between publication of this notice and the scheduled hearing serves as the required public comment period of at least 60 days for the purpose of receiving written public comments on the proposed regulations. All interested parties may submit written comments prior to the hearing to Barry Brooks, Department of Health and Environment, Bureau of Consumer Health, Mills Building, 109 S.W. 9th, Topeka, 66612. Complete copies of the regulations and the economic impact statement may be obtained by contacting Barry Brooks.

All interested parties will be given a reasonable opportunity to present their views orally on the adoption of the proposed regulations during the hearing. In order to give all parties an opportunity to present their views, it may be necessary that each participant limit any oral presentation to five minutes.

Any individual with a disability may request accommodation in order to participate in the public hearing and may request the proposed regulations and economic impact statement in an accessible format. Requests for ac-

commodation should be made at least five working days in advance of the hearing by contacting Barry Brooks at (785) 296-5606.

Clyde D. Graeber
Secretary of Health
and Environment

Doc. No. 024322

State of Kansas

Department of Transportation

Notice to Consulting Engineers

The Kansas Department of Transportation is seeking qualified consulting engineering firms for the project listed below. Responses must be received by 5 p.m. October 20 for the consulting engineering firm to be considered. Seven signed copies of the response should be mailed to Neil Rusch, P.E., Assistant to the Director, Division of Engineering and Design, KDOT, Room 1084-West, Docking State Office Building, 915 S.W. Harrison, Topeka, 66612-1568. Responses shall be limited to four pages.

From the firms expressing interest, the Consultant Selection Committee will select a list of the most highly qualified (not less than three, not more than five) and invite them to attend an individual interview conference. At this time, the consulting firms can more thoroughly discuss their experience related to the type of project at hand and will be expected to discuss, in some detail, their approach to this project and the personnel to be assigned to the project. Firms not selected to be short listed will be notified by letter.

The Consultant Negotiating Committee, appointed by the Secretary of Transportation, will conduct the discussions with the firms invited to the individual interview conferences. The committee will select the firm to perform the professional services required for completing the advertised project. After the selection of this firm, the remaining firms will be notified by letter of the outcome.

Project No. 283-33 K-5770-01

Graham County

The scope of improvement is to provide for the reconstruction of US-283 from the curb and gutter in Hill City, north 21.7 km to the Graham-Norton county line. The surveys have been completed by KDOT. All bridge designs will be completed by KDOT. The project is scheduled for plan completion in March 2003 and the construction estimate is \$12,649,000.

It is KDOT's policy to use the following criteria as the basis for selection of the consulting engineering firms:

- size and professional qualifications;
- experience of staff;
- location of firm with respect to proposed project;
- work load of firm; and
- firm's performance record.

E. Dean Carlson
Secretary of Transportation

Doc. No. 024330

State of Kansas

**Office of Judicial Administration
Court of Appeals**

Summary Calendar—No Oral Argument Docket

Before Brazil, C.J.; Marquardt, J.; and Eric S. Rosen, D.J., assigned.

Tuesday, October 12, 1999

Case No.	Case Name	Attorneys	County
81,966	State of Kansas, Appellee, v. Tavis L. Young, Appellant.	Attorney General Debra S. Peterson, Asst. D.A. Bradley P. Sylvester	Sedgwick
82,258	State of Kansas, Appellee, v. Jeffery Scott Smith, Appellant.	Attorney General Jacqueline J. Spradling, Asst. D.A. Jessica R. Kunen, Chief A.D.	Johnson
82,466	Ricky E. Arnold, Appellant, v. Meier's Ready Mix, Inc., and Kansas Aggregate Ready Mix Association, Appellees.	James L. Wisler Matthew S. Crowley	Work Comp
82,648	Rosemond Bowers, Appellee, v. Cessna Aircraft Company, Appellant, and Kemper Insurance Company.	Gary K. Jones R. Todd King Kirby A. Vernon	Work Comp
82,776	In the Interest of: K.O., dob: 10/24/91 Z.O.; dob: 10/10/93 B.O., dob: 10/10/93	Cedric L. Lockett Sheryl A. Bussell, Asst. D.A. Lavone Dailey William D. Peters, Jr.	Wyandotte
81,825	State of Kansas, Appellee, v. Albert Brinkman, Appellant.	Attorney General Frank E. Kohl, C.A. J. David Farris	Leavenworth
82,358	State of Kansas, Appellee, v. Norman L. Robinson, Appellant.	Attorney General Matthew J. Bock, Asst. D.A. Jessica R. Kunen, Chief A.D.	Wyandotte
82,364	In the Matter of the Marriage of Gayle S. Barker, now Gayle S. Johnson, Appellant, and Brent L. Barker, Appellee.	Richard A. Benjes Randy M. Barker Luann K. Trummel	Reno
82,529	State of Kansas, Appellee, v. Joshua W. Cornelious, Appellant.	Attorney General Keith W. Sprouse, C.A. Ralph J. DeZago	Marshall
82,792	Douglas W. Knoles, Appellant, v. Groendyke Transport, Inc., and Continental Casualty Co., Appellees.	Steven D. Treaster Robyn M. Butler	Work Comp
82,011 82,012	State of Kansas, Appellee, v. Patricia D. Becker, Appellant.	Attorney General Thomas R. Stanton, Asst. C.A. Wm. Rex Lorson	Saline
82,297	State of Kansas, Appellee, v. Lawrence T. Burton, Appellant.	Attorney General Debra S. Peterson, Asst. D.A. Jessica R. Kunen, Chief A.D.	Sedgwick
82,704	State of Kansas, Appellee, v. Bobby R. Hunt, Appellant.	Attorney General Michael L. Leyba, Asst. C.A. Lisa A. Beran	Barton

82,740	State of Kansas, Appellee,	Attorney General	Sedgwick
82,741	v.	Debra S. Peterson, Asst. D.A.	
	Steven D. Hamm, Appellant.	Ted L. Peters	
82,760	Citizens for a Better Lane County	John M. Carter II	Lane
	and	Allen G. Glendenning	
	Gary McBee, Appellants,		
	v.		
	Lane County Board of County		
	Commissioners, Appellee.		

Before Gernon, P.J.; Rulon, J.; and William F. Lyle, D.J., assigned.

Tuesday, October 12, 1999

Case No.	Case Name	Attorneys	County
82,005	State of Kansas, Appellee,	Attorney General	Ford
	v.	William T. Stetzer, Asst. C.A.	
	Jose Manuel Ortega-Najera, Appellant.	Jessica R. Kunen, Chief A.D.	
82,271	Jerry Adams, Appellant,	Ralph J. DeZago	Johnson
	v.	Attorney General	
	State of Kansas, Appellee.	Steven J. Obermeier, Asst. D.A.	
82,432	State of Kansas, Appellee,	Attorney General	Sedgwick
	v.	Debra S. Peterson, Asst. D.A.	
	Marcus E. Shuler, Appellant.	Jessica R. Kunen, Chief A.D.	
82,483	Donald A. Landry, Appellant,	David J. Desimone	Work Comp
	v.	Jeffrey S. Austin	
	Graphic Technology, Inc.,		
	and		
	ITT Hartford Insurance, Appellees.		
83,290	In the Interest of:	Janice L. Hayes	Jefferson
	B.R.M., a child under 18 years of age,	Victor J. Raden, Asst. C.A.	
	dob: 01/05/86;	Evelyn Allen	
	J.N.M., a child under 18 years of age,		
	dob: 06/20/84;		
	J.W.M., a child under 18 years of age,		
	dob: 05/23/83.		
81,439	Tom Benoit and Donna Benoit, Appellee,	Paula D. Hofaker	Rooks
	v.	John T. Bird	
	Larry Newell and Sandra Newell,		
	Appellants.		
81,976	Brett D. Wheeler, Appellant,	Stephen W. Kessler	Shawnee
	v.	Attorney General	
	State of Kansas, Appellee.	Brenda Taylor-Mader, Asst. D.A.	
82,047	State of Kansas, Appellee,	Attorney General	Geary
	v.	Tony Cruz, Asst. C.A.	
	Anthony Groves, Appellant.	Eric A. Stahl	
82,355	State of Kansas, Appellee,	Attorney General	Sedgwick
	v.	Debra S. Peterson, Asst. D.A.	
	Michael O. Coffee, Appellant.	Bradley P. Sylvester	
83,086	Angela Wortham, Appellee,	James P. Johnston	Work Comp
	v.	Kelly W. Johnston	
	Wal-Mart, and	Janell Jenkins-Foster	
	Claims Management, Inc., Appellants.	Michael D. Streit	
81,291	State of Kansas, Appellee,	Attorney General	Sedgwick
	v.	Debra S. Peterson, Asst. D.A.	
	Edmonds L. Hayes, Appellant.	Jessica R. Kunen, Chief A.D.	
81,954	State of Kansas, Appellee,	Attorney General	Sedgwick
	v.	Debra S. Peterson, Asst. D.A.	
	Clifford G. Hamilton, Jr., Appellant.	Jessica R. Kunen, Chief A.D.	

(continued)

82,440	State of Kansas, Appellee, v. John D. Embrey, Appellant.	Attorney General Ty Kaufman, C.A. Jessica R. Junen, Chief A.D.	McPherson
82,444	Ronald Guiden, Appellant, v. State of Kansas, Appellee.	Jessica R. Kunen, Chief A.D. Attorney General Debra S. Peterson, Asst. D.A.	Sedgwick
83,163	In the Matter of the Application of Reno Township for Exemption for Ad Valorem Taxation in Leavenworth County, Kansas.	Keyta D. Kelly John F. Thompson	Tax Appeal

Before Lewis, P.J.; Knudson and Green, JJ.

Tuesday, October 12, 1999

Case No.	Case Name	Attorneys	County
80,651	State of Kansas, Appellee, v. Anthony J. Parker, Appellant.	Attorney General Thomas R. Stanton, Asst. C.A. Benjamin C. Wood	Saline
82,223	Lyle Craig Sanders, Appellant, v. State of Kansas, Appellee.	Roger L. Falk Attorney General Debra S. Peterson, Asst. D.A.	Sedgwick
82,316	State of Kansas, Appellee, v. Elton E. Profit, Jr., Appellant.	Attorney General Debra S. Peterson, Asst. D.A. Jessica R. Kunen, Chief A.D.	Sedgwick
82,793	Tyrone Tyner, Appellant, v. Southeastern Public Service, and Insurance Company State of Pennsylvania, Appellees.	John G. O'Connor D'Ambra M. Howard	Work Comp
83,132	Thomas Wilkerson and William L. Wilkerson, Appellees, v. Heather A. Brown, f/k/a Heather A. Montgomery, Appellant.	Steven D. Treaster Jason L. Bush	Wyandotte
81,257	State of Kansas, Appellee, v. Alan W. Coltharp, Appellant.	Attorney General Debra S. Peterson, Asst. D.A. Michael C. Brown Alan W. Coltharp, pro se	Sedgwick
81,725	State of Kansas, Appellee, v. Curtis D. Sult, Appellant.	Attorney General Debra S. Peterson, Asst. D.A. Jessica R. Kunen, Chief A.D.	Sedgwick
82,308	State of Kansas, Appellee, v. Brian A. Coble, Appellant.	Attorney General Cynthia J. Long, Asst. D.A. Jessica R. Kunen, Chief A.D.	Shawnee
82,711	In the Matter of the Estate of Lee Walsh, Deceased.	William J. Graybill Eric B. Smith Kim R. Schroeder	Morton
82,838	Amy L. Burroughs, Appellee, v. IPB, Inc., Respondent, Self-Insured, Appellant.	John F. Bryan Jennifer L. Hoelker	Work Comp
82,212	State of Kansas, Appellee, v. Troy Rapp, Appellant.	Attorney General Christina Trocheck, Asst. C.A. Jessica R. Kunen, Chief A.D.	Saline
82,523	State of Kansas, Appellee, v. David P. Weber, Appellant.	Attorney General Robyn Johnson, C.A. Gary L. Fuller	Doniphan

82,773	State of Kansas, Appellee, v. Kevin R. Drum, Appellant.	Attorney General Timothy J. Chambers, C.A. Randall H. McEwen	Reno
82,976	In the Matter of the Marriage of Patricia J. Cohee, Appellee, and Terry V. Cohee, Appellant.	Patricia A. Reeder Thomas Odell Rost	Shawnee
82,108	State of Kansas, Appellee, v. Maurice D. Brown, Appellant.	Attorney General Debra S. Peterson, Asst. D.A. Douglas L. Adams, Jr.	Sedgwick

Before Pierron, P.J.; Elliott, J.; and Rogg, S.J., assigned.

Tuesday, October 12, 1999

Case No.	Case Name	Attorneys	County
81,467	State of Kansas, Appellee, v. Malik Omar Durham, Appellant.	Attorney General Jerome A. Gorman, Asst. D.A. Jessica R. Kunen, Chief A.D.	Wyandotte
81,766	State of Kansas, Appellee, v. Clifford G. Hamilton, Jr., Appellant.	Attorney General Debra S. Peterson, Asst. D.A. Jessica R. Kunen, Chief A.D.	Sedgwick
82,886	Dealers Leasing, Inc., Appellee, v. Sandra I. Allen, d/b/a the Breakfast Club, Defendant/Third-Party Plaintiff, Appellant, v. Ronald "Ronnie" Cazel, d/b/a Billiards and Games, etc., Appellee.	James R. Gilhousen Roger C. Kidd	Sedgwick
82,968	State of Kansas, Appellee, v. Mark S. Narducci II, Appellant.	Attorney General Russ Roe, Asst. C.A. Allen B. Angst	Geary
83,289	Clarence L. Horton, Appellee, v. Bob's Supersaver Country Mart, Appellee, Caldwell's Country Mart, Appellant, and Crum & Foster Insurance Co., Appellee, United States Fire Insurance, Appellee, North River Insurance Company, Appellant.	Charles W. Hess Douglas C. Hobbs John S. Seeber	Work Comp
81,672	In the Matter of the Marriage of Donald J. McKillip, Appellee, and Elizabeth A. McKillip, Appellant.	Kevin P. Moriarty Edward G. Collister, Jr.	Douglas
81,689	State of Kansas, Appellee, v. Dannie Delaney, Appellant.	Attorney General Bonnie Hannan, Asst. D.A. Bradly W. Johnson	Wyandotte
81,963	State of Kansas, Appellee, v. Dennis P. Brooks, Appellant.	Attorney General Debra S. Peterson, Asst. D.A. Jessica R. Kunen, Chief A.D.	Sedgwick
82,024 82,415	State of Kansas, Appellee, v. Joshua Vigil, Appellant.	Attorney General Christina Trocheck, Asst. C.A. Ralph J. DeZago	Saline
82,585	State of Kansas, Appellee, v. Michael Leroy Gottlob, Appellant.	Attorney General James R. Spring, Deputy C.A. Lance C. Templar	Cowley

(continued)

81,322	Bill E. Tucker, Jr., Appellant, v. State of Kansas, Appellee.	Jessica R. Kunen, Chief A.D. Attorney General Debra S. Peterson, Asst. D.A.	Sedgwick
82,237	State of Kansas, Appellee,	Attorney General	Saline
82,300	v.	Julie McKenna, C.A.	
82,301	Donald D. Burch, Appellant.	Ralph J. DeZago	
82,302			
82,244	State of Kansas, Appellee, v. Keenan Lamar McCoy, Appellant.	Attorney General Edmond Brancart, Deputy C.A. Jessica R. Kunen, Chief A.D.	Ford
82,615	Med D. James III, Appellant, v. Commissioner of Insurance of the State of Kansas, Appellee.	J. Franklin Hummer JaLynn Copp	Shawnee
83,133	In the Matter of the Marriage of Joan Ruth Byrne, Appellee, and Edward Vincent Byrne, Appellant.	Edward V. Byrne, pro se Joe L. Norton	Johnson

Carol G. Green
Clerk of the Appellate Courts

Doc. No. 024313

State of Kansas

Legislature

Interim Committee Schedule

The following committee meetings have been scheduled during the period of September 27 through October 10:

Date	Room	Time	Committee	Agenda
September 27	519-S	10:00 a.m.	SRS Transition Oversight	Agenda not available.
September 28	519-S	9:00 a.m.	Committee	
September 28	514-S	10:00 a.m.	Joint Committee on State-Tribal	Visits to reservations.
September 29	514-S	9:00 a.m.	Relations	
September 28	PSU	10:00 a.m.	Joint Committee on Economic	28th: Housing issues.
September 29	PSU	9:00 a.m.	Development	29th: Update on Business & Technology Institute and tour of Kansas Technology Center.
September 29	531-N	9:00 a.m.	Task Force on Rail Passenger Service in Kansas	Agenda not available.
September 30	Wichita	9:00 a.m.	Joint Committee on Corrections	Attend Governor's Conference on
October 1	Wichita	8:30 a.m.	and Juvenile Justice Oversight	Prevention.
October 4	519-S	10:00 a.m.	Legislative Post Audit	Legislative matters.
October 5	519-S	9:00 a.m.		
October 5	123-S	10:00 a.m.	Special Committee on Judiciary	5th: a.m. - Committee review of Topics #1, #2, #3, #5, #6, #7 and #8.
October 6	123-S	9:00 a.m.		p.m. - Hearings on Topic #9 - Kansas Citizens Justice Initiatives.
				6th: Hearings on Topic #4 - Article #9, UEC Changes.
October 6	514-S	10:00 a.m.	Special Committee on	Agenda not available.
October 7	514-S	9:00 a.m.	Assessment and Taxation	
October 6	519-S	10:00 a.m.	Special Committee on	Agenda not available.
October 7	519-S	9:00 a.m.	Agriculture	

Jeff Russell
Director of Legislative
Administrative Services

Doc. No. 024326

State of Kansas

Department of Health
and EnvironmentNotice Concerning Kansas
Water Pollution Control Permits

In accordance with Kansas Administrative Regulations 28-16-57 through 63, 28-18-1 through 15, 28-18a-1 through 32, 28-16-150 through 154, 28-46-7, and the authority vested with the state by the administrator of the U.S. Environmental Protection Agency, draft permits have been prepared and/or permit applications have been received for discharges to the waters of the United States and the State of Kansas for the class of discharges described below. The determinations for permit content are based on staff review, applying the appropriate standards, regulations and effluent limitations of the State of Kansas and the EPA, and when issued will result in a State Water Pollution Control Permit and National Pollutant Discharge Elimination System Authorization subject to certain conditions.

All Kansas Department of Health and Environment district office addresses and telephone numbers are listed below.

Public Notice No. KS-AG-99-130/131

Application(s) for New or Expansion
of Existing Swine Facilities

Name and Address of Applicant	Owner of Property Where Facility Will Be Located	Legal Description	Receiving Water
Mike Bellar Route 1, Box 81 Howard, KS 67349	Mike Bellar Route 1, Box 81 Howard, KS 67349	NW/4 of Section 11 & SW/4 of Section 2, Township 30 South, Range 10 East, Elk County	Elk River

Application Number A-VEEK-S004

This is an application for the expansion of an existing permit. The proposed permit will be for 2,400 head of swine weighing more than 55 pounds (906 animal units). A new or modified permit will not be issued without additional public notice.

Name and Address of Applicant	Owner of Property Where Facility Will Be Located	Legal Description	Receiving Water
Strahm Farms, Inc. Route 3, Box 113 Sabetha, KS 66534	Strahm Farms, Inc. Route 3, Box 113 Sabetha, KS 66534	NE/4 of Section 28, Township 1 South, Range 14 East, Nemaha County	Kansas River

Application Number A-KSNM-F001

This is a new facility for 60,000 head (0 animal units) of poultry and 50 head (20 animal units) of swine greater than 55 pounds. A new or modified permit will not be issued without additional public notice.

Public Notice No. KS-AG-99-132/139

Pending Permits for Confined Feeding Facilities

Name and Address of Applicant	Legal Description	Receiving Water
Strahm Farms, Inc. Route 3, Box 113 Sabetha, KS 66534	NE/4 of Section 28, T1S, R14E, Nemaha County	Kansas River
Kansas Permit No. A-KSNM-F001		
This is a new facility for 60,000 head (0 animal units) of poultry and 50 head (20 animal units) of swine greater than 55 pounds.		
Wastewater Control Facilities: Wastewater will be impounded for subsequent application to agricultural land for beneficial use. Wastewater storage capacity will be provided which meets or exceeds KDHE minimum requirements.		
Compliance Schedule: None, existing controls are adequate.		
Name and Address of Applicant	Legal Description	Receiving Water
Rex D. Albin Feedlot Route 1, Box 82 Quinter, KS 67752	NE/4 of Section 22, T14S, R27W, Gove County	Smoky Hill River
Kansas Permit No. A-SHGO-C004 Federal Permit No. KS-0117765		
This is a renewal of an existing facility for a maximum of 4,500 head (4,500 animal units) of beef cattle weighing greater than 700 pounds.		
Wastewater Control Facilities: Wastewater will be impounded for subsequent application to agricultural land for beneficial use. Wastewater storage capacity will be provided which meets or exceeds KDHE minimum requirements.		
Compliance Schedule: A livestock waste management plan for the facility shall be developed and will become part of the permit. Written verification of the additional required dewatering equipment shall be submitted to the department within three months of the effective date of this permit.		

Name and Address of Applicant	Legal Description	Receiving Water
Cheyenne County Feedyard, LLC Route 2, Box 109 St. Francis, KS 67756	NE/4 of Section 31, T4S, R39W, Cheyenne County	Upper Republican River
Kansas Permit No. A-URCN-C001 Federal Permit No. KS-0079677		
This is a renewal of an existing permit for a maximum of 12,000 head (12,000 animal units) of beef cattle weighing greater than 700 pounds each.		
Wastewater Control Facilities: Wastewater will be impounded for subsequent application to agricultural land for beneficial use. Wastewater storage capacity will be provided which meets or exceeds KDHE minimum requirements.		
Compliance Schedule: A livestock waste management plan for the facility shall be developed and will become part of the permit. Written verification of the additional required dewatering equipment and application area shall be submitted to the department within three months of the effective date of this permit.		

Name and Address of Applicant	Legal Description	Receiving Water
County Line Feeders Route 1, Box 22 Almena, KS 67622	E/2-SW/4 & W/2-SE/4 of Section 25, T1S, R21W, Norton County	Upper Republican River
Kansas Permit No. A-URNT-C002 Federal Permit No. KS-0091014		
This is a renewal permit for an existing facility for a maximum of 5,000 head (5,000 animal units) of beef cattle weighing greater than 700 pounds each.		
Wastewater Control Facilities: Wastewater will be impounded for subsequent application to agricultural land for beneficial use. Wastewater storage capacity will be provided which meets or exceeds KDHE minimum requirements.		
Compliance Schedule: The approved livestock waste management plan for the facility shall be adhered to as a condition of the permit. Written verification of the additional required dewatering equipment shall be submitted to the department within three months of the effective date of the permit.		

(continued)

Name and Address of Applicant	Legal Description	Receiving Water
Circle K. Corp. Donald K. Kirkman P.O. Box 1607 Great Bend, KS 67530	NW/4 of Section 37 T20S, R14W, Barton County	Upper Arkansas River

Kansas Permit No. A-UABT-C006 Federal Permit No. KS-0090832

This is a renewal permit for an existing facility for a maximum of 4,900 head (4,900 animal units) of beef cattle weighing greater than 700 pounds each.

Wastewater Control Facilities: Wastewater will be impounded for subsequent application to agricultural land for beneficial use. Wastewater storage capacity will be provided which meets or exceeds KDHE minimum requirements.

Compliance Schedule: The approved livestock waste management plan for the facility shall be adhered to as a condition of the permit. Written verification of the additional required dewatering equipment shall be submitted to the department within three months of the effective date of the permit.

Name and Address of Applicant	Legal Description	Receiving Water
Schriner Farms Randy Schriner 1312 N.W. 60 Road Albert, KS 67511	NE/4 of Section 35, T18S, R16W, Rush County	Upper Arkansas River

Kansas Permit No. A-UARH-C001 Federal Permit No. KS-0037711

This is a renewal for an existing facility for a maximum of 2,000 head (2,000 animal units) of beef cattle weighing greater than 700 pounds each.

Wastewater Control Facilities: Wastewater will be impounded for subsequent application to agricultural land for beneficial use. Wastewater storage capacity will be provided which meets or exceeds KDHE minimum requirements.

Compliance Schedule: A livestock waste management plan for the facility shall be developed and will become part of the permit. All trees growing within 100 feet of the earthen retention structures must be removed before the waste management system is utilized.

Name and Address of Applicant	Legal Description	Receiving Water
Ladder Creek Dairy, Inc. P.O. Box 671 Tribune, KS 67879	SW/4 of Section 3, T16S, R40W, Greeley County	Ladder Creek

Kansas Permit No. A-SHGL-D001 Federal Permit No. KS-0095303

This is a new facility for 3,000 head (4,200 animal units) of dairy cattle.

Wastewater Control Facilities: Wastewater will be impounded for subsequent application to agricultural land for beneficial use. Wastewater storage capacity will be provided which meets or exceeds KDHE minimum requirements.

Compliance Schedule: A livestock waste management plan for the facility shall be developed and submitted to the department within six months of the effective date of the permit. The approved plan will be implemented and become part of the permit. Dewatering equipment shall be obtained within two months of the effective date of the permit through purchase, rental or custom application agreement.

Name and Address of Applicant	Legal Description	Receiving Water
Jim Harrison Ranch HC 2, Box 5 Wallace, KS 67761	W/2 of Section 34, T11S, R38W, Wallace County	Smoky Hill River

Kansas Permit No. A-SHWA-C004 Federal Permit No. KS-0090824

This is a permit renewal for an existing facility for a maximum of 1,200 head (1,200 animal units) of beef cattle weighing greater than 700 pounds each.

Wastewater Control Facilities: Wastewater will be impounded for subsequent application to agricultural land for beneficial use. Wastewater storage capacity will be provided which meets or exceeds KDHE minimum requirements.

Compliance Schedule: A livestock waste management plan for the facility shall be developed within three months of the effective date of the permit and shall become a part of the permit. Written verification of pumping equipment and additional disposal land shall be submitted to the department within three months of the effective date of the permit.

Public Notice No. KS-99-140/143

Name and Address of Applicant	Waterway	Type of Discharge
City of Lawrence c/o Roger Coffey P.O. Box 708 Lawrence, KS 66044	Kansas River	Process wastewater

Facility: Lawrence Water Treatment Plant

Kansas Permit No. I-KS31-PO16 Federal Permit No. KS0088234

Legal: NE¼, S25, T12S, R19E and SE¼, S30, T12S, R20E, Douglas Co.

Facility Description: The proposed action is to issue a new permit for the discharge of wastewater from a water treatment plant. Wastewater is discharged from the presedimentation and presettling basins, filters and a lime slurry lagoon to waters of the state. The proposed permit includes monitoring and limits for total suspended solids, pH and total residual chlorine. The permit requirements are pursuant to the Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f), and Federal Surface Water Criteria, and are water quality based.

Name and Address of Applicant	Waterway	Type of Discharge
City of Oakley 209 Hudson Ave. Oakley, KS 67748-1725	Smoky Hill River via north branch Hackberry Creek via unnamed tributary	Treated domestic wastewater

Kansas Permit No. M-SH29-0001 Federal Permit No. KS0031291

Legal: NE¼, S10, T11S, R32W, Logan Co.

Facility Description: The proposed action is to reissue an existing permit for an existing mechanical plant treating primarily domestic wastewater. The proposed permit includes limits for biochemical oxygen demand, total suspended solids and pH; and monitoring for ammonia, fecal coliform and flow. The permit requirements are pursuant to the Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f), and Federal Surface Water Criteria, and are technology based.

Name and Address of Applicant	Waterway	Type of Discharge
Unified School District No. 229 Stilwell Elementary P.O. Box 23901 Overland Park, KS 66283	Blue River via Camp Branch	Treated domestic wastewater

Kansas Permit No. M-MO26-0003 Federal Permit No. KS0118231

Legal: SW¼, S5, T15S, R25E, Johnson Co.

Facility Description: The proposed action is to reissue an existing permit for the operation of an existing mechanical wastewater treatment facility treating primarily domestic wastewater. The proposed permit includes limits for biochemical oxygen demand, total suspended solids, fecal coliform and pH; and monitoring for flow. The permit requirements are pursuant to the Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f), and Federal Surface Water Criteria, and are water quality based.

Name and Address of Applicant	Waterway	Type of Discharge
Whispering Pines Mobile Home Park c/o Jim D. Gardner P. O. Box 1133 Castroville, CA 95012	Spring River via Cow Creek via Second Cow Creek	Treated domestic wastewater

Kansas Permit No. C-NE57-TO01 Federal Permit No. KS0118354

Legal: SW¼, S25, T30S, R24E, Crawford Co.

Facility Description: The proposed action is to reissue an existing permit for operation of an existing wastewater treatment facility treating primarily domestic wastewater. The proposed permit includes limits for biochemical oxygen demand, total suspended solids, ammonia and pH, and monitoring for fecal coliform. The proposed permit also contains a schedule of compliance to upgrade the facility by adding disinfection of the effluent. The permit requirements are pursuant to the Kansas Surface Water Quality Standards, K.A.R. 28-16-28(b-f), and Federal Surface Water Criteria, and are water quality based.

Public Notice No. KS-EG-99-012/014

In accordance with K.A.R. 28-46-7 and the authority vested with the state by the administrator of the U.S. Environmental Protection Agency, draft permits have been prepared for the use of the well(s) described below within the State of Kansas.

Name and Address of Applicant	Well Location
KN Processing, Inc. 777 Ave. Y Bushton, KS 67427-9815	
Well Identification #7 Permit No. KS-01-053-006	SW SW NE S31, T17S, R9W, Ellsworth Co. 2964 ft. fsl and 2630 ft. fel of SE Corner of Section

Facility Description: The facility is a hydrocarbon processing plant and hydrocarbon storage well facility. The proposed permit is for a new well. The permittee is authorized to inject nonhazardous liquid waste from this facility consisting of near saturated mineralized waste brines, nonhazardous wastes from the hydrocarbon processing operation and nonhazardous waste from the nearby Linde Plant.

Name and Address of Applicant	Well Location
IMC Salt, Inc. P. O. Box 498 Lyons, KS 67554	
Well Identification G101 Permit No. KS-03-159-195	SW SW SW S14, T20S, R8W, Rice Co. 650 ft. fsl and 5162 ft. fel of SE Corner of Section
Well Identification G109 Permit No. KS-03-159-196	SW SW SE S15, T20S, R8W, Rice Co. 650 ft. fsl and 2440 ft. fel of SE Corner of Section

Facility Description: The facility is a salt production plant. The injection fluids consist of fresh water and weak brine.

Persons wishing to comment on or object to the draft permits and/or permit applications must submit their comments in writing to the Kansas Department of Health and Environment if they wish to have the comments or objections considered in the decision making process. Comments or objections should be submitted to the attention of Dena Endsley for agricultural permits or applications, or to the permit clerk for all other permits, at the Kansas Department of Health and Environment, Division of Environment, Bureau of Water, J Street and 2 North, Forbes Field, Building 283, Topeka, 66620.

All comments regarding the draft permit or application notice postmarked or received on or before October 23 will be considered in the formulation of final determinations regarding this public notice. Please refer to the appropriate Kansas permit number (KS-AG-99-130/139, KS 99-140/143, KS-EG-99-012/014) and name of applicant/application as listed when preparing comments.

If no objections are received during the public notice period regarding any proposed permit, the Secretary of Health and Environment will issue the final determination regarding issuance or denial of the proposed permit.

If response to this notice indicates significant public interest, a public hearing may be held in conformance with K.A.R. 28-16-61 (28-46-21 for UIC). Media coordination for publication and/or announcement of the public notice or public hearing is handled by the Kansas Department of Health and Environment.

For agricultural permits and applications, a copy of the permit application, supporting documentation, and a KDHE-developed fact sheet, if appropriate, is available for review at the appropriate district office:

Northwest District Office, 2301 E. 13th, Hays, 67601-2651, (785) 625-5664

North Central District Office, 2501 Market Place, Salina, 67401-7699, (785) 827-9639

Northeast District Office, 800 W. 24th, Lawrence, 66046-4417, (785) 842-4600

Southwest District Office, 302 W. McArtor Road, Dodge City, 67801-6098, (316) 225-0596

South Central District Office, 130 S. Market, 6th Floor, Wichita, 67202-3802, (316) 337-6020

Southeast District Office, 1500 W. 7th, Chanute, 66720, (316) 431-2390

Plans and documents for all new facilities and for expansions of existing swine facilities also may be reviewed on the Internet at www.kdhe.state.ks.us.

For all other proposed permits, the draft permit(s), including, proposed effluent limitations and special conditions, fact sheets as appropriate, comments received, and other information, are on file and may be inspected at the offices of the Kansas Department of Health and Environment, Bureau of Water, J Street and 2 North, Forbes Field, Building 283, Topeka.

Division of Environment offices are open from 8 a.m. to 5 p.m. Monday through Friday, excluding holidays. These documents are available upon request at the copying cost assessed by KDHE. Additional copies of this public notice also may be obtained at the Division of Environment.

Clyde D. Graeber
Secretary of Health
and Environment

Doc. No. 024331

State of Kansas

Secretary of State

Temporary Administrative
Regulations

Article 35.—CENSUS ADJUSTMENT

7-35-1. Adjustment of federal census data. Before July 31 of the year following the federal decennial census, responses from student and military questionnaires shall be used by the secretary of state to compute the number of persons to be added to or subtracted from each election precinct's population totals from the decennial census conducted by the U.S. bureau of the census. (Authorized by K.S.A. 11-305; implementing Article 10, Section 1 of

(continued)

the Kansas Constitution and K.S.A. 11-303; effective Dec. 11, 1989; amended, T-7-9-13-99, Sept. 13, 1999.)

7-35-2. Questionnaires. Questionnaires for all students enrolled at a college or university in the state of Kansas and for military personnel stationed and located in the state of Kansas during the decennial census year shall be provided by the secretary of state. Completed questionnaires shall be returned by college and university officials and military officers to the secretary of state before June 1 of the decennial census year. (a) The questionnaires shall require each college or university student and each military person to provide all information deemed necessary by the secretary of state to determine the person's residency for the purpose of conducting the census adjustment. The questionnaires shall also provide for racial and ethnic information similar to that provided on the federal census questionnaire.

(b) If the military person has already completed a decennial census adjustment questionnaire as a student at a Kansas college or university, the person shall state the name of that college or university.

(c) In cases in which individual military personnel are unavailable to fill out their questionnaires on April 1 of the decennial census year because their military duties require them to be temporarily absent from the installation to which they are assigned, the military officer responsible for providing census adjustment data to the secretary of state may provide these persons with an opportunity to complete their questionnaires at some time after April 1 but not later than May 1.

(d) Each college or university in Kansas shall provide to the secretary of state a list of names and addresses of all students enrolled during the spring semester of the decennial census year. Every military officer in charge of more than 50 persons in the military service shall provide to the secretary of state a list of names and addresses of all military personnel under that officer's command on April 1 of the decennial census year. The lists shall not be used to determine the permanent residence of any individual.

(e) Questionnaires shall be distributed to all college and university students enrolled for the spring semester of the decennial census year by officials at each institution who shall be designated by their respective administrators. Questionnaires shall be distributed to all military personnel by officers who shall be designated by their respective administrators. The questionnaires shall be completed on or after April 1 whenever possible, to coincide with the official census date of the U.S. bureau of the census, or at another time that is administratively expedient but not later than May 1. (Authorized by K.S.A. 11-305; implementing Article 10, Section 1 of the Kansas Constitution and K.S.A. 11-303; effective Dec. 11, 1989; amended, T-7-9-13-99, Sept. 13, 1999.)

Ron Thornburgh
Secretary of State

Doc. No. 024315

State of Kansas

Department of Administration

Temporary Administrative Regulations

Article 9.—HOURS; LEAVES; EMPLOYEE-MANAGEMENT RELATIONS

1-9-14. Transfer of leave credits. (a) When an employee transfers from one state agency to another, the employee's accumulated vacation and sick leave credits shall be transferred with the employee. The new agency may require that the transferring employee work six months in that agency before the employee uses vacation leave.

(b) When an employee separates from one agency and is appointed to another agency on the following working day on a basis other than a transfer, the employee's accumulated vacation and sick leave shall be transferred with the employee.

(c) If the employee has any compensatory time credits at the time of the transfer or other separation, the employee shall be paid for the credits by the agency from which the employee is transferring.

(d)(1) If an employee is rehired, the employee's sick leave balance on the date of the employee's separation from service shall be reinstated if the employee provides at least one of the following types of documentation of the sick leave balance within 30 days of the date the employee is rehired:

(A) state agency leave ledger records showing the employee's sick leave balance at the time of separation;

(B) a copy of the pay stub from the employee's final payroll check or advice at the time of separation from the service; or

(C) personnel payroll system records showing the employee's sick leave balance at the time of separation.

If the employee was compensated for unused sick leave pursuant to K.S.A. 75-5517, and amendments thereto, no sick leave shall be reinstated.

(2) Any individual who is a current employee on the effective date of these amendments and who was rehired by a state agency prior to the effective date of these amendments may request reinstatement of sick leave balances in the manner provided in paragraph (d)(1). (Authorized by K.S.A. 75-3747; implementing K.S.A. 75-3707 and 75-3746; effective May 1, 1979; amended, T-1-9-13-99, Sept. 13, 1999.)

Daniel R. Stanley
Secretary of Administration

Doc. No. 024317

State of Kansas

State Corporation Commission

Temporary Administrative
RegulationsArticle 4.—MOTOR CARRIERS OF PERSONS
AND PROPERTY

82-4-3. Motor carrier safety regulations. (a) The following parts of the federal rules and regulations promulgated by the U.S. department of transportation, federal highway administration, and office of motor carriers are hereby adopted by reference as the regulations of the commission. The adoption by reference shall cover the parts as in effect on July 1, 1997, except where specifically provided:

- (1) General: 49 CFR Part 390, except for the following:
 - (A) 49 CFR 390.3(b) and (f);
 - (B) the following terms as they appear in 49 CFR 390.5: "motor vehicle," "person," and "private motor carrier of property"; "commercial motor vehicle," "motor carrier," and "driver"; and
 - (C) 49 CFR 390.11;
- (2) qualifications of drivers: 49 CFR Part 391, except sections 49 CFR 391.2(a), (b), and (c), 391.11(b)(1), 391.49, 391.67, and 391.69;
- (3) driving of motor vehicles: 49 CFR Part 392, except 49 CFR 392.2;
- (4) parts and accessories necessary for safe operation: 49 CFR Part 393, except 49 CFR 393.81, 393.87 and 393.95(a);
- (5) hours of service of drivers: 49 CFR Part 395, except 49 CFR 395.1(i), (j), (k) and (l);
- (6) hours of service of drivers engaged in transportation for agricultural operations: 49 CFR 395.1(k), as in effect on October 1, 1998, with the following provisions:
 - (A) "Agricultural commodities" means the unprocessed products of agriculture, horticulture, viticulture, and cultivation of the soil, including wheat, corn, hay, milo, sorghum, and soybeans. Agricultural commodities shall not include livestock and livestock products, milk, honey, poultry products, timber products, or nursery stock, nor shall it include the transportation of hazardous materials of the type or quantity that requires the vehicle to be placarded;
 - (B) "farm supplies" means supplies or equipment for use in the planting or harvesting of agricultural commodities, but shall not include the transportation of hazardous materials of the type or quantity that requires the vehicle to be placarded; and
 - (C) "planting and harvesting season" means only the peak time periods for planting and harvesting that occur between March 1 and November 30;
- (7) inspection, repair, and maintenance: 49 CFR Part 396;
- (8) transportation of hazardous materials; driving and parking rules: 49 CFR Part 397;
- (9) transportation of migrant workers: 49 CFR Part 398;
- (10) employee safety and health standards: 49 CFR Part 399;
- (11) minimum levels of financial responsibility for motor carriers: 49 CFR Part 387, except strictly intrastate non-

hazardous motor carriers covered under K.S.A. 66-1,128 and amendments thereto;

(12) procedures for transportation workplace drug testing programs: 49 CFR Part 40 and 49 C.F.R. Part 382; and

(13) rules of practice for motor carrier safety and hazardous materials proceedings: 49 CFR 386.72.

(b) Whenever the incorporated federal regulations refer to portions of the federal regulations that are not included under subsection (a) of this regulation, those references shall not be applicable to this regulation.

(c) The following terms as used in this regulation and the identified sections of the regulations adopted by reference shall be defined as follows:

(1) "Authorized personnel," as used in 49 CFR 396.9 (c), means members of the Kansas highway patrol or authorized representatives of the commission who have been certified in the inspection of motor carriers based on the motor carrier safety assistance program standards.

(2) "Regional director of motor carriers," as used in 49 CFR 391.51(b)(2), means the administrator of the transportation division of the commission.

(3) "Regional director of motor carriers," as used in 49 CFR 391.51(g), means the superintendent of the Kansas highway patrol and the administrator of the transportation division of the commission.

(4) "Special agent of FHWA or special agent of the federal highway administration and authorized representatives of the federal highway administration," as used in 49 CFR 395.13(a), 398.8(a), and appendix B to subchapter B, means authorized representatives of the commission, and members of the Kansas highway patrol who have been certified in the inspection of motor carriers based on the motor carrier safety assistance program standards.

(d) Copies of the motor carrier safety regulations promulgated by the U.S. department of transportation may be obtained from the superintendent of documents, United States government printing office, Washington, D.C. 20402. (Authorized by and implementing K.S.A. 1998 Supp. 66-1,112, 66-1,112a, K.S.A. 66-1,112g and 66-1,129; effective Jan. 1, 1971; modified, L. 1981, ch. 424, May 1, 1981; amended May 1, 1984; amended May 1, 1985; amended May 1, 1987; amended April 30, 1990; amended Sept. 16, 1991; amended July 6, 1992; amended May 10, 1993; amended Oct. 3, 1994; amended Jan. 30, 1995; amended Jan. 4, 1999; amended, T-82-9-13-99, Sept. 13, 1999.)

Jeff Wagaman
Executive Director

Doc. No. 024314

State of Kansas

State Employees Health Care Commission

Temporary Administrative
Regulations

Article 1.—ELIGIBILITY REQUIREMENTS

108-1-3. School district employee health care benefits plan. (a) Definitions.

(1) "Commission" means the Kansas state employees health care commission.

(2) "Qualified school district" means a public school district, community college, area vocational technical school, or technical college that meets the terms, conditions, limitations, exclusions, and other provisions established by the commission for participation in the school district employee health care benefits component of the health care benefits program and has entered into a written agreement with the commission to participate in the program.

(3) "School district employee" means any individual who meets the definition of employee under K.S.A. 74-4932(4), and amendments thereto, and who is employed by a qualified school district. For purposes of this definition, a technical college shall be a participating employer under K.S.A. 74-4931, and amendments thereto, in accordance with K.S.A. 72-4471, and amendments thereto.

(4) "School district plan" means the school district employee health care benefits component of the health care benefits program.

(b) Active participants. Subject to the provisions of subsection (c), each school district employee shall be eligible to participate as an active participant in the school district plan. Eligibility and participation shall be subject to terms, conditions, limitations, exclusions, and other provisions established by the commission, including the amount and method of payment for employee and employer contributions.

(c) Waiting periods.

(1) Each school district employee whose first day of work for a qualified school district is on or after the first day of the first plan year in which the employee's qualified school district participates in the school district plan shall become eligible for coverage following completion of a 60-day waiting period beginning with the first day of work for the qualified school district. Each school district employee shall have 31 days after becoming eligible to elect health insurance coverage.

(2) The waiting period established in paragraph (c)(1) shall not apply if all of the following conditions are met:

(A) The person is returning to work for the qualified school district or is transferring from another qualified school district.

(B) Immediately before leaving the prior position, the person was enrolled in the school district plan or was covered by the health care insurance plan provided by the employee's qualified school district.

(C) The break in service between the prior position and the new position does not exceed the following time periods:

(i) 30 or fewer calendar days; or

(ii) 365 or fewer days, if the person was laid off in accordance with the practices of the qualified school district.

(3) The waiting period established in paragraph (c)(1) may be waived when the chief administrative officer of the qualified school district, or the chief administrative officer's designee, meets the following requirements:

(A) The chief administrative officer or the chief administrative officer's designee shall provide both of the following certifications to the commission, or its designee, in writing:

(i) A potential new school district employee is not entitled to continuation of health benefits available from prior insurance coverage.

(ii) The waiting period poses, or will pose, an obstacle to recruitment.

(B) The chief administrative officer or the chief administrative officer's designee shall submit the request for a waiver before the employee's acceptance of the position.

(4) Each school district employee who is employed by the employee's qualified school district immediately before the first day on which the employee's qualified school district participates in the school district plan shall be subject to transitional provisions established by the commission regarding waiting periods and the date on which the employee becomes eligible to participate in the school district plan.

(5) The waiting period described in this subsection may be waived by the commission if the commission determines that failure to grant a waiver would create a manifest injustice or undue hardship on the school district employee.

(d) Categories of direct bill participants. Subject to the provisions of subsection (e), the classes of persons eligible to participate as members of the school district plan on a direct bill basis shall be those classes of persons listed below:

(1) Any retired school district employee who is receiving state warrants for retirement benefits;

(2) any totally disabled former school district employee who is receiving benefits under K.S.A. 74-4927, and amendments thereto;

(3) any surviving spouse or dependent of a qualifying participant in the school district plan;

(4) any person who is a school district employee and who is on approved leave without pay in accordance with the practices of the qualified school district; and

(5) any individual who was covered by the health care plan offered by the qualified school district on the day immediately before the first day on which the qualified school district participates in the school district plan, except that no individual who is an employee of the qualified school district and who does not meet the definition of school district employee in subsection (a) shall be qualified as a direct bill participant under this paragraph.

(e) Conditions for direct bill participants. Each person who is within a class listed in subsection (d) shall be eligible to participate on a direct bill basis only if the person meets both of the following requirements:

(1) The person was covered by the school district plan or the health care insurance plan offered by the qualified school district on one of the following bases:

(A) Immediately before the date the person ceased to be eligible for coverage, or for any person identified in paragraph (d)(5), immediately before the first day on which the qualified school district participates in the school district plan, the person either was covered as an active participant under subsection (b) or was covered by the health care insurance plan offered by the employee's qualified school district.

(B) The person is a surviving spouse or dependent of a person who was enrolled as a plan participant under subsection (b) or (d) at the time the plan participant died, and the person was enrolled in spouse or dependent coverage under subsection (g) at the time the plan participant died.

(C) The person is a surviving spouse or dependent of a person who was enrolled as a plan participant under the health care insurance plan offered by the participant's qualified school district at the time the participant died, and the person was covered under the same plan at the time the participant died.

(2) The person files a statement of election with the commission's health benefits administrator to continue coverage under the plan. The election to continue coverage shall be submitted on a form prescribed by the commission's health benefits administrator. The form shall be

submitted no more than 30 days after the person ceased to be eligible for coverage, or in the case of any individual identified in paragraph (d)(5), no more than 30 days after the first day on which the qualified school district participates in the school district plan.

(f) Continuation of benefits (COBRA) coverage. Any individual with rights to extend coverage under provisions of public law 99-272, as amended, may participate in the school district plan, subject to the provisions of that federal law.

(g) Coverage of spouses and dependents. Any person who is enrolled in the school district plan under subsection (b), (d), or (f) may enroll a spouse and eligible dependent children, subject to the same conditions and limitations that apply to the person enrolled in accordance with this regulation.

(h) This regulation shall take effect October 1, 1999, and shall be applicable to the school district plan established by the commission on or after this date. (Authorized by K.S.A. 75-6501 and 75-6510; implementing K.S.A. 75-6501 and 75-6508; effective, T-108-9-13-99, Oct. 1, 1999.)

Terry Bernatis
Health Benefits Administrator

Doc. No. 024316

State of Kansas

Department of Health and Environment

Permanent Administrative Regulations

Article 39.—LICENSURE OF ADULT CARE HOMES

28-39-133. (Authorized by and implementing K.S.A. 39-932; effective May 1, 1982; revoked Oct. 8, 1999.)

28-39-134 to 28-39-137. (Authorized by and implementing K.S.A. 39-932; effective, T-83-4, Jan. 7, 1982; effective May 1, 1982; amended, T-83-28, Sept. 22, 1982; amended May 1, 1983; revoked Oct. 8, 1999.)

28-39-144. Definitions. The following definitions shall apply to all adult care homes except nursing facilities for mental health and intermediate care facilities for the mentally retarded.

(a) "Activities director" means an individual who meets one of the following requirements:

- (1) Has a degree in therapeutic recreation;
- (2) has two years of experience in a social or recreational program within the last five years, one of which was full-time in a patient activities program in a health care setting;
- (3) is registered in Kansas as an occupational therapist or occupational therapy assistant;
- (4) has a bachelor's degree in a therapeutic activity field in art therapy, horticultural therapy, music therapy, special education, or a related therapeutic activity field; or

(5) has completed a course approved by the department in resident activities coordination and receives consultation from a therapeutic recreation specialist, an oc-

cupational therapist, an occupational therapy assistant, or an individual with a bachelor's degree in art therapy, music therapy, or horticultural therapy.

(b) "Administrator" means any individual who is charged with the general administration of a nursing facility, nursing facility for mental health, assisted living facility, or residential health care facility, whether or not the individual has an ownership interest in the adult care home. Each administrator of an adult care home shall be licensed in accordance with K.S.A. 65-3501 et seq., and amendments thereto.

(c) "Adult day care" means an adult care home that meets the definition in K.S.A. 39-923(a)(9), and amendments thereto.

(d) "Adult care home" means any of the following facilities licensed by the secretary of health and environment:

- (1) A nursing facility;
- (2) a nursing facility for mental health;
- (3) an intermediate care facility for the mentally retarded;
- (4) an assisted living facility;
- (5) a residential health care facility;
- (6) a home-plus facility;
- (7) an adult day care facility; or
- (8) a boarding care home.

(e) "Advanced registered nurse practitioner" means an individual who is certified by the Kansas board of nursing as an advanced registered nurse practitioner.

(f) "Alteration" means any addition, modification, or modernization in the structure or usage of a facility.

(g) "Ambulatory resident" means any resident who is physically and mentally capable of performing the following:

(continued)

- (1) Getting in and out of bed and;
- (2) walking in a normal path to safety in a reasonable period of time without the assistance of another person.
- (h) "Applicant" means any individual, firm, partnership, corporation, company, association, or joint stock association requesting a license to operate an adult care home.
- (i) "Assisted living facility" means an adult care home that meets the definition found in K.S.A. 1995 Supp. 39-923(a)(5), and amendments thereto.
- (j) "Audiologist" means an individual who is licensed by the Kansas department of health and environment as an audiologist.
- (k) "Basement" means the part of a building that is below grade.
- (l) "Boarding care home" means an adult care home that meets the definition found in K.S.A. 39-923(a)(8), and amendments thereto.
- (m) "Change of ownership" means any transaction that results in a change of control over the capital assets of an adult care home.
- (n) "Clinical record" means a record that includes all the information and entries reflecting each resident's course of stay in an adult care home.
- (o) "Controlled substance" means any drug, substance, or immediate precursor included in any of the schedules designated in K.S.A. 65-4105, 65-4107, 65-4109, 65-4111, and 65-4113, and amendments thereto.
- (p) "Day shift" means any eight-hour work period that occurs between the hours of 6 a.m. and 9 p.m.
- (q) "Department" means the Kansas department of health and environment.
- (r) "Dietetic services supervisor" means an individual who meets one of the following requirements:
 - (1) Is licensed in the state of Kansas as a dietitian;
 - (2) has an associate's degree in dietetic technology from a program approved by the American dietetic association;
 - (3) has a certificate from a dietary managers' training program approved by the dietary managers' association; or
 - (4) has training and experience in dietetic services supervision and management that are determined by the secretary of health and environment to be equivalent in content to the program in paragraphs (2) and (3) of this subsection.
- (s) "Dietitian" means an individual who is licensed by the Kansas department of health and environment as a dietitian.
- (t) "Direct care staff" means individuals employed by an adult care home who assist residents in activities of daily living. These activities may include the following:
 - (1) Grooming;
 - (2) eating;
 - (3) toileting;
 - (4) transferring; and
 - (5) ambulation.
- (u) "Director of nursing" means an individual who meets the following criteria:
 - (1) Is licensed in Kansas as a registered nurse;
 - (2) is employed full-time in a nursing facility; and

- (3) has the responsibility, administrative authority, and accountability for the supervision of nursing care provided to residents in a nursing facility.
- (v) "Drug administration" means an act in which a single dose of a prescribed drug or biological is given by injection, inhalation, ingestion, or any other means to a resident by an authorized person in accordance with all laws and regulations governing the administration of drugs and biologicals. Drug administration shall entail the following:
 - (1) Removing an individual dose from a labeled container, including a unit dose container;
 - (2) verifying the drug and dose with the physician's orders;
 - (3) administering the dose to the proper resident; and
 - (4) documenting the dose in the resident's clinical record.
- (w) "Drug dispensing" means the delivery of one or more doses of a drug by a licensed pharmacist or physician. The drug shall be dispensed in a container and labeled in compliance with state and federal laws and regulations.
- (x) "Full-time" means 35 or more hours per week.
- (y) "Health information management practitioner" means an individual who has completed the requirements of education and experience for a certificate as a registered record administrator or an accredited record technician as promulgated by the American health information management association, as in effect on October 1, 1990, and hereby adopted by reference.
- (z) "Home plus" means an adult care home that meets the definition of K.S.A. 39-923 (a) (7), and amendments thereto.
 - (aa) "Interdisciplinary team" means the following:
 - (1) A registered nurse with responsibility for the care of the residents; and
 - (2) other appropriate staff, as identified by resident comprehensive assessments, who are responsible for the development of care plans for residents.
 - (bb) "Legal representative" means an individual person who has been appointed by a court of law as a guardian or has been selected by a resident in a durable power of attorney for health care decisions.
 - (cc) "Licensed mental health technician" means an individual licensed by the Kansas board of nursing as a licensed mental health technician.
 - (dd) "Licensed nurse" means an individual licensed by the Kansas board of nursing as a registered professional nurse or licensed practical nurse.
 - (ee) "Licensed practical nurse" means an individual who is licensed by the Kansas board of nursing as a licensed practical nurse.
 - (ff) "Licensed social worker" means an individual who is licensed by the Kansas board of behavioral sciences as a social worker.
 - (gg) "Licensee" means an individual, firm, partnership, association, company, corporation, or joint stock association authorized by a license obtained from the secretary of health and environment to operate an adult care home.
 - (hh) "Medication" means any drug defined by K.S.A. 65-1626, and amendments thereto.

(ii) "Medication aide" means an individual who has completed a training program in medication administration as prescribed in K.A.R. 28-39-169 through K.A.R. 28-39-171.

(jj) "Non-ambulatory resident" means any resident who is not physically or mentally capable of getting in and out of bed and walking a normal path to safety without the assistance of another person.

(kk) "Nurse aide" means an individual who has a nurse aide certificate issued by the Kansas department of health and environment pursuant to K.A.R. 28-39-165.

(ll) "Nurse aide trainee" means an individual who is in the process of completing a nurse aide training program as prescribed in K.A.R. 28-39-165 or K.A.R. 28-39-167 and has not been issued a nurse aide certificate by the Kansas department of health and environment.

(mm) "Nursing facility" means an adult care home that meets the definition found in K.S.A. 39-923(a)(2), and amendments thereto.

(nn) "Nursing facility for mental health" means an adult care home that meets the definition of K.S.A. 39-923(a)(3), and amendments thereto.

(oo) "Nursing personnel" means all of the following:

- (1) Registered professional nurses;
- (2) licensed practical nurses;
- (3) licensed mental health technicians in nursing facilities for mental health;
- (4) medication aides;
- (5) nurse aides; and
- (6) nurse aide trainees.

(pp) "Nursing unit" means a distinct area of a nursing facility serving not more than 60 residents and including the service areas and rooms described in K.A.R. 28-39-162.

(qq) "Occupational therapist" means an individual who is registered with the Kansas board of healing arts as an occupational therapist.

(rr) "Occupational therapy assistant" means an individual who is registered with the Kansas board of healing arts as an occupational therapy assistant.

(ss) "Physical restraint" means any method or any physical device, material, or equipment attached or adjacent to the resident's body and meeting the following criteria:

- (1) Cannot be easily removed by the resident; and
- (2) restricts freedom of movement or normal access to the resident's body.

(tt) "Physical therapist" means an individual who is registered with the Kansas board of healing arts as a physical therapist.

(uu) "Physical therapy assistant" means an individual who is certified by the Kansas board of healing arts as a physical therapy assistant.

(vv) "Physician" means an individual who meets the requirements of the Kansas board of healing arts to practice medicine or osteopathy.

(ww) "Psychopharmacologic drug" means any drug prescribed with the intent of controlling mood, mental status, or behavior.

(xx) "Registered professional nurse" means an individual who is licensed by the Kansas state board of nursing as a registered professional nurse.

(yy) "Respite care" means the provision of services to a resident on an intermittent basis for periods of fewer than 30 days at any one time.

(zz) "Sanitization" means effective bactericidal treatment by a process that reduces the bacterial count, including pathogens, to a safe level on utensils and equipment.

(aaa) "Self-administration of drugs" means the determination by the resident of when to take a drug and the application or ingestion of the drug by the resident without assistance from nursing staff.

(bbb) "Significant change in condition" means a decline or improvement in a resident's mental, psychosocial, or physical functioning that would result in the need for amendment of the resident's comprehensive plan of care or negotiated service agreement.

(ccc) "Social services designee" means an individual who meets one of the following qualifications:

(1) Is licensed by the board of behavioral science as a social worker;

(2) has a bachelor's degree in a human service field, including sociology, special education, rehabilitation counseling, or psychology, and receives supervision from a licensed social worker; or

(3) has completed a course in social services coordination approved by the department and receives supervision from a licensed social worker on a regular basis.

(ddd) "Speech language pathologist" means an individual who is licensed by the Kansas department of health and environment as a speech-language pathologist. (Authorized by and implementing K.S.A. 39-932; effective Nov. 1, 1993; amended Feb. 21, 1997; amended Oct. 8, 1999.)

28-39-145. (Authorized by K.S.A. 39-932; implementing K.S.A. 39-927, K.S.A. 39-930 and K.S.A. 39-932; effective Nov. 1, 1993; amended Feb. 21, 1997; revoked Oct. 8, 1999.)

28-39-145a. Licensure of adult care homes. (a) Letter of intent.

(1) Each applicant for an adult care home license shall submit a letter of intent to the department.

(2) The letter of intent shall include all of the following information:

(A) The type of adult care home license being requested;

(B) the name, address, and telephone number of each applicant; and

(C) the street address or legal description of the proposed site.

(b) Initial licensure application.

(1) Each applicant for an initial license shall submit all of the following to the department:

(A) A completed application on a form prescribed by the department; and

(B) copies of legal documents identifying ownership and control, including the following:

- (i) Deeds;
- (ii) leases;
- (iii) management agreements;

(continued)

(iv) any required approvals of other owners or mortgagors;

(v) curriculum vitae or resumes of all facility and corporate staff responsible for the operation and supervision of the business affairs of the facility. Applicants who operate facilities in states other than Kansas shall submit a complete list of names and addresses of those facilities; and

(vi) a financial statement projecting the first month's operating income and expenses with a current balance sheet showing a minimum of one month's operating expenses in cash or owner's equity. All financial statements shall be prepared according to generally accepted accounting principles and certified by the applicant to be accurate.

(2) Each license shall be issued by the department when all of the following requirements are met:

(A) A licensure application has been completed by the applicant.

(B) Construction is completed.

(C) The facility is found to meet all applicable requirements of the law.

(D) The applicant is found to qualify for a license under the provisions of K.S.A. 39-928, and amendments thereto.

(c) Change of ownership.

(1) The current licensee shall notify the department, in writing, of any anticipated change from that which is recorded on the current license 60 days before the proposed effective date of change.

(2) Each applicant proposing to purchase, lease, or manage an adult care home shall submit all of the following to the department:

(A) A completed application form prescribed by the department; and

(B) legal documents transferring ownership or control, including the following:

(i) Sales contracts;

(ii) leases;

(iii) deeds;

(iv) management agreements;

(v) any required approvals of other owners or mortgagors;

(vi) curriculum vitae or resumes of all facility and corporate staff responsible for the operation and supervision of the business affairs of the facility. Applicants who operate facilities in states other than Kansas shall submit a complete list of those facilities with names and addresses; and

(vii) a financial statement projecting the first month's operating income and expenses with a current balance sheet showing a minimum of one month's operating expenses in cash or owner's equity. All financial statements shall be prepared according to generally accepted accounting principles and certified by the owner as accurate.

(3) Each new license shall be issued by the department when both of the following requirements are met:

(A) A licensure application has been completed by the applicant.

(B) The applicant is found to qualify for a license under the provisions of K.S.A. 39-928, and amendments thereto, and has submitted a completed application form.

(d) New construction or conversion of an existing unlicensed building to an adult care home.

(1) Site approval.

(A) Each applicant shall request approval of the site for any of the following proposed adult care homes at least 30 days before construction begins:

(i) A nursing facility;

(ii) an intermediate care facility for the mentally retarded;

(iii) an assisted living facility; or

(iv) a residential health care facility.

(B) The request for site approval shall be in writing and shall include all of the following information:

(i) The name and telephone number of the individual to be contacted by evaluation personnel;

(ii) the dimensions and boundaries of the site; and

(iii) the name of the public utility or municipality that provides services to the site, including water, sewer, electricity, and natural gas.

(C) Intermediate care facilities for the mentally retarded shall not have more than one residential building as defined in K.A.R. 28-39-225 located on one site or on contiguous sites. The residential buildings shall be dispersed geographically to achieve integration and harmony with the community or neighborhoods in which the buildings are located.

(2) The applicant shall submit one copy of final plans and specifications, which shall be sealed, signed, and certified by a licensed architect to be in compliance with the following regulations:

(A) Nursing facilities, K.A.R. 28-39-162 through K.A.R. 28-39-162c; and

(B) assisted living facilities and residential health care facilities, K.A.R. 28-39-254 through K.A.R. 28-39-256.

(3) The applicant shall provide the department with a 30-day notice of each of the following:

(A) The date on which the architect estimates that 50% of the construction will be completed; and

(B) the date on which the architect estimates that all construction will be completed.

(4) The applicant of a home-plus, boarding care home, or adult day care facility shall submit a drawing of the proposed facility that includes identification and dimensions of rooms or areas as required in the following regulations:

(A) Home plus, K.A.R. 28-39-437;

(B) boarding care, K.A.R. 28-39-411; and

(C) adult day care, K.A.R. 28-39-289 through 28-39-291.

(5) The applicant shall submit to the department any changes from the plans and specifications on file at the department.

(e) Alteration and remodeling of licensed adult care homes involving structural elements.

(1) The licensee shall submit one copy of final plans and specifications, which shall be sealed, signed, and certified by a licensed architect to be in compliance with the following regulations:

(A) Nursing facilities, K.A.R. 28-39-162 through K.A.R. 28-39-162c;

(B) assisted living facilities and residential health care facilities, K.A.R. 28-39-254 through K.A.R. 28-39-256;

(C) intermediate care facilities for the mentally retarded with 16 or fewer beds, K.A.R. 28-39-225;

(D) intermediate care facilities for the mentally retarded with 17 or more beds, K.A.R. 28-39-162 through K.A.R. 28-39-162c; and

(E) nursing facilities for mental health, K.A.R. 28-39-227.

(2) The licensee shall submit to the department a 30-day notice for each of the following:

(A) The date on which the architect estimates that 50% of the construction will be completed;

(B) the date on which the architect estimates all construction will be completed; and

(C) any changes in the plans or specifications information for the alterations and remodeling.

(f) Reports. Each licensee shall file reports with the department on forms and at times prescribed by the department.

(g) Change of administrator, director of nursing, or operator. Each licensee of an adult care home shall notify the department immediately when there is a change in administrator, director of nursing, or operator. When a new administrator, director of nursing, or operator is employed, the licensee shall notify the department of the name, address, and Kansas license number of the new administrator or director of nursing. In the case of a new operator, the licensee shall provide evidence that the individual has completed the operator course as specified by the secretary.

(h) Change of resident capacity. Each licensee shall submit a written request for any proposed change in resident capacity to the department. The effective date of a change in resident capacity shall be the first day of the month following department approval.

(i) Change in use of a required room or area. Each proposed change in the use of a required room or area in an adult care home shall be approved by the department before the change is made.

(j) Fees. Each initial application for a license and each annual report filed with the department shall be accompanied by a fee of \$15.00 for each resident in the stated resident capacity plus \$50.00. Each requested change in resident capacity shall be accompanied by a fee of \$15.00 for each resident increase or decrease in the stated resident capacity plus \$50.00. No refund of the fee shall be made if a license application is denied. (Authorized by K.S.A. 39-930, 39-932, and 39-933; implementing K.S.A. 39-927, 39-930, 39-932, and 39-933; effective Oct. 8, 1999.)

28-39-152. Quality of care. Each resident shall receive and the nursing facility shall provide the necessary care and services to attain or maintain the highest practicable physical, mental, and psychosocial well-being in accordance with the comprehensive assessment and the plan of care.

(a) Activities of daily living. Based on the comprehensive assessment of the resident, the facility shall ensure all of the following:

(1) Each resident's abilities in activities of daily living improve or are maintained except as an unavoidable result of the resident's clinical condition. This shall include the resident's ability to perform the following:

- (A) Bathe;
- (B) dress and groom;
- (C) transfer and ambulate;
- (D) toilet;
- (E) eat; and
- (F) use speech, language, or other functional communication systems.

(2) Each resident is given the appropriate treatment and services to maintain or improve the level of functioning as described above in paragraph (1).

(3) Any resident who is unable to perform activities of daily living receives the necessary services to maintain good nutrition, grooming, and personal and oral hygiene. The facility shall ensure all of the following:

(A) Residents are bathed to ensure skin integrity, cleanliness, and control of body odor.

(B) Oral care is provided so that the oral cavity and dentures are clean and odor is controlled.

(C) Residents are dressed and groomed in a manner that preserves personal dignity.

(D) Residents who are unable to eat without assistance are offered fluids and food in a manner that maintains adequate hydration and nutrition.

(E) The resident's abilities to obtain fluid and nutrition in a normal manner are preserved or enhanced.

(b) Urinary incontinence. The facility shall ensure all of the following:

(1) Residents who are incontinent at the time of admission or who become incontinent after admission are assessed, and based on that assessment a plan is developed and implemented to assist the resident to become continent, unless the resident's clinical condition demonstrates that incontinence is unavoidable.

(2) Residents who are incontinent receive appropriate treatment and services to prevent urinary tract infections.

(3) Residents who are admitted to the facility without an indwelling catheter are not catheterized, unless the resident's clinical condition demonstrates that catheterization is necessary.

(4) Residents with indwelling catheters receive appropriate treatment and services to prevent urinary tract infections and to restore normal bladder function, if possible.

(c) Pressure ulcers. Based on the comprehensive assessment, the facility shall ensure all of the following:

(1) Any resident who enters the facility without pressure ulcers does not develop pressure ulcers, unless the resident's clinical condition demonstrates that they were unavoidable. The facility shall report in writing the development of any pressure ulcer to the medical director.

(2) Any resident with pressure ulcers receives the necessary treatment and services to promote healing, prevent infection, and prevent new ulcers from developing.

(3) A skin integrity program is developed for each resident identified to be at risk for pressure ulcers. The program shall include the following:

(A) Frequent changes of position at least one time every two hours;

(B) protection of the skin from items that could promote loss of skin integrity;

(continued)

(C) the use of protective devices over vulnerable areas, including heels, elbows, and other body prominences; and

(D) methods to assist the resident to remain in good body alignment.

(d) Stasis ulcers. Based on the comprehensive assessment of the resident, the facility shall ensure both of the following:

(1) Any resident who is identified on the comprehensive assessment as being at risk for development of stasis ulcers does not develop stasis ulcers, unless the resident's clinical condition demonstrates that the stasis ulcers were unavoidable.

(2) Any resident with stasis ulcers receives the necessary treatment and services to promote healing, prevent infection, and prevent new ulcers from developing.

(e) Range of motion. Based on the comprehensive assessment of a resident, the facility shall ensure all of the following:

(1) Any resident who enters the facility without a limitation in range of motion does not experience a reduction in range, unless the resident's clinical condition demonstrates that a reduction in range of motion is unavoidable.

(2) Any resident with a decrease in range of motion receives appropriate treatment and services to increase range of motion, if practicable, and to prevent further decrease in range of motion.

(3) Any resident who is identified as at risk for experiencing a decrease in range of motion is provided appropriate treatment and services to prevent the decrease.

(f) Mobility. Based on the comprehensive assessment of the resident, the facility shall ensure all of the following:

(1) A resident's level of mobility does not decrease after admission, unless the resident's clinical condition demonstrates that a reduction in mobility is unavoidable.

(2) Any resident with a limitation in mobility receives the appropriate treatment and services to maintain or increase the resident's mobility.

(3) Any resident who is identified by the comprehensive assessment to be at risk for a reduction of function in the area of mobility is provided the treatment and services to prevent or limit that decrease in function.

(g) Psychosocial functioning. Based on the comprehensive assessment of the resident, the facility shall ensure both of the following:

(1) A resident's level of psychosocial functioning does not decrease after admission, unless the resident's clinical condition demonstrates that a reduction in psychosocial functioning is unavoidable.

(2) Any resident who displays psychosocial adjustment difficulty receives appropriate treatment and services to achieve as high a level of psychosocial functioning as possible within the constraints of the resident's clinical condition.

(h) Gastric tubes. Based on the comprehensive assessment of a resident, the facility shall ensure that each resident meets either of the following criteria:

(1) Has been able to eat enough to maintain adequate nutrition and hydration independently or with assistance is not fed by a gastric tube, unless the resident's clinical

condition demonstrates that use of a gastric tube was unavoidable; or

(2) is fed by a gastric tube and receives the following appropriate treatment and services:

(A) To prevent the following:

(i) Aspiration pneumonia;

(ii) diarrhea;

(iii) vomiting;

(iv) dehydration;

(v) metabolic abnormalities;

(vi) nasal and pharyngeal ulcers; and

(vii) ulceration at a gastrostomy tube site; and

(B) to restore, if possible, normal feeding function.

(i) Accidents. The facility shall ensure both of the following:

(1) The resident's environment remains free of accident hazards.

(2) Each resident receives adequate supervision and assistive devices to prevent accidents.

(j) Nutrition. Based on the resident's comprehensive assessment, the facility shall ensure all of the following for each resident:

(1) Maintenance of acceptable parameters of nutritional status, including usual body weight and protein levels, unless the resident's clinical condition demonstrates that this is not possible;

(2) a therapeutic diet as ordered by the attending physician when there is a nutritional problem or there is a potential for a nutritional problem; and

(3) for residents at risk for malnutrition, the provision of monitoring and appropriate treatment and services to prevent malnutrition.

(k) Hydration. The facility shall provide each resident with sufficient fluid intake to maintain proper hydration and health.

(1) Fresh water, with or without ice according to the preference of the resident, shall be accessible to each resident at all times except when not appropriate due to resident's clinical condition.

(2) Any resident at risk for dehydration shall be monitored, and appropriate treatment and services shall be provided to prevent dehydration.

(l) The facility shall ensure that each resident receives proper treatment and care for special services, which shall include the following:

(1) Parenteral injections. Parenteral injections shall be performed by licensed nurses and physicians;

(2) Intravenous fluids and medications. Intravenous fluids and medications shall be administered and monitored by a registered nurse or by a licensed practical nurse who has documented successful completion of training in intravenous therapy;

(3) colostomy, ureterostomy, or ileostomy care;

(4) tracheostomy care;

(5) tracheal suctioning;

(6) respiratory care;

(7) podiatric care;

(8) prosthetic care;

(9) skin care related to pressure ulcers;

(10) diabetic testing; and

(11) other special treatments and services ordered by the resident's physician.

(m) Drug therapy. The facility shall ensure that all drugs are administered to residents in accordance with a physician's order and acceptable medical practice. The facility shall further ensure all of the following:

(1) All drugs are administered by physicians, licensed nursing personnel, or other personnel who have completed a state-approved training program in drug administration.

(2) A resident may self-administer drugs if the interdisciplinary team has determined that the resident can perform this function safely and accurately and the resident's physician has given written permission.

(3) Drugs are prepared and administered by the same person.

(4) The resident is identified before administration of a drug, and the dose of the drug administered to the resident is recorded on the resident's individual drug record by the person who administers the drug.

(n) Oxygen therapy. The facility shall ensure that oxygen therapy is administered to a resident in accordance with a physician's order. The facility shall further ensure all of the following:

(1) Precautions are taken to provide safe administration of oxygen.

(2) Each staff person administering oxygen therapy is trained and competent in the performance of the required procedures.

(3) Equipment used in the administration of oxygen, including oxygen concentrators, is maintained and disinfected in accordance with the manufacturer's recommendations.

(4) A sign that reads "oxygen—no smoking" is posted and visible at the corridor entrance to a room in which oxygen is stored or in use.

(5) All smoking materials, matches, lighters, or any item capable of causing a spark has been removed from a room in which oxygen is in use or stored.

(6) Oxygen containers are anchored to prevent them from tipping or falling over. (Authorized by and implementing K.S.A. 39-932; effective Nov. 1, 1993; amended Feb. 21, 1997; amended Oct. 8, 1999.)

28-39-160. Other resident services. (a) Special care section. A nursing facility may develop a special care section within the nursing facility to serve the needs of a specific group of residents.

(1) The facility shall designate a specific portion of the facility for the special care section.

(2) The facility shall develop admission and discharge criteria that identify the diagnosis, behavior, or specific clinical needs of the residents to be served. The medical diagnosis, physician's progress notes, or both shall justify admission to the section.

(3) A written physician's order shall be required for placement.

(4) Direct care staff shall be present in the section at all times.

(5) Before admission to a special care section, the facility shall inform the resident or resident's legal representative in writing of the services and programs available in the special care section that are different from those services and programs provided in the other sections of the facility.

(6) The facility shall provide a training program for each staff member before the member's assignment to the section. Evidence of completion of the training shall be on file in the employee's personnel records.

(7) The facility shall provide in-service training specific to the needs of the residents in the special care section to staff at regular intervals.

(8) The facility shall develop and make available to the clinical care staff policies and procedures for operation of the special care section.

(9) The facility shall provide a substation for use by the direct care staff in the special care section. The design of the substation shall be in accordance with the needs of the special care section and shall allow for visibility of the corridors from that location.

(10) Staff in the section shall be able to observe and hear resident and emergency call signals from the corridor and nurse substation.

(11) The facility shall provide living, dining, activity, and recreational areas in the special care section at the rate of 27 square feet per resident, except when residents are able to access living, dining, activity, and recreational areas in another section of the facility.

(12) The comprehensive resident assessment shall indicate that the resident would benefit from the program offered by the special care section.

(13) The resident comprehensive care plan shall include interventions that effectively assist the resident in correcting or compensating for the identified problems or need.

(14) Control of exits shall be the least restrictive possible for the residents in the section.

(b) Adult day care. A nursing facility may provide adult day care services to any individual whose physical, mental, and psychosocial needs can be met by intermittent nursing, psychosocial, and rehabilitative or restorative services.

(1) The nursing facility shall develop written policies and procedures for provision of adult day care services.

(2) The nursing facility shall develop criteria for admission to and discharge from the adult day care service.

(3) The nursing facility shall maintain a clinical record of services provided to clients in the adult day care program.

(4) The provision of adult day care services shall not adversely affect the care and services offered to residents of the facility.

(c) Respite care. A nursing facility may provide respite care to individuals on a short-term basis of not more than 30 consecutive days.

(1) The facility shall develop policies and procedures for the provision of respite care.

(2) All requirements for admission of a resident to a nursing facility shall be met for an individual admitted for respite care.

(3) The facility may obtain an order from the resident's physician indicating that the resident may return to the facility at a later date for respite care.

(A) The facility may identify the resident's clinical record as inactive until the resident returns.

(continued)

(B) Each time the resident returns to the facility for subsequent respite services, the resident's physician shall review the physician plan of care and shall indicate any significant change that has occurred in the resident's medical condition since the previous stay.

(C) The facility shall review and revise the comprehensive assessment and care plan, if needed.

(D) The facility shall conduct a comprehensive assessment after any significant change in the resident's physical, mental, or psychosocial functioning and not less often than once a year.

(E) Any facility with a ban on admissions shall not admit or readmit residents for respite care. (Authorized by and implementing K.S.A. 39-932; effective Nov. 1, 1993; amended Feb. 21, 1997; amended Oct. 8, 1999.)

28-39-161. Infection control. Each nursing facility shall establish and maintain an infection control program designed to provide a safe, sanitary, and comfortable environment for residents and to prevent the development and transmission of disease and infection.

(a) Each facility shall establish an infection control program under which the facility meets the following requirements:

(1) Prevents, controls, and investigates infections in the facility;

(2) develops and implements policies and procedures that require all employees to adhere to universal precautions to prevent the spread of blood-borne infectious diseases based on "universal precautions for prevention of transmission of human immunodeficiency virus, hepatitis B virus, and other bloodborne pathogens in health-care settings," as published in the morbidity and mortality weekly report, June 24, 1988, vol. 37 No. 24 and CDC guidelines for "handwashing and hospital environmental control," as published in November 1985, are hereby adopted by reference;

(3) develops and implements policies and procedures related to isolation of residents with suspected or diagnosed communicable diseases based on the centers for disease control "guideline for isolation precautions in hospitals," as published in January 1996, which is hereby adopted by reference;

(4) develops policies and procedures related to employee health based on the centers for disease control "guideline for infection control in hospital personnel," as published in August 1983, which is hereby adopted by reference;

(5) assures that at least one private room that is well ventilated and contains a separate toilet facility is designated for isolation of a resident with an infectious disease requiring a private room. The facility shall develop a policy for transfer of any resident occupying the designated private room to allow placement of a resident with an infectious disease requiring isolation in the private room designated as an isolation room;

(6) includes in the orientation of new employees and periodic employees in-service information on exposure control and infection control in a health care setting; and

(7) maintains a record of incidents and corrective actions related to infection that is reviewed and acted upon by the quality assessment and assurance committee.

(b) Preventing the spread of infection.

(1) When a physician or licensed nurse determines that a resident requires isolation to prevent the spread of infection, the facility shall isolate the resident according to the policies and procedures developed.

(2) The facility shall prohibit employees with a communicable disease or infected skin lesions from coming in direct contact with residents, any resident's food, or resident care equipment until the condition is resolved.

(3) Tuberculosis skin testing shall be administered to each new resident and employee as soon as residency or employment begins, unless the resident or employee has documentation of a previous significant reaction. Each facility shall follow the centers for disease control recommendations for "prevention and control of tuberculosis in facilities providing long-term care to the elderly," as published in morbidity and mortality weekly report, July 13, 1990.

(4) Staff shall wash their hands after each direct resident contact for which handwashing is indicated by the centers for disease control guideline for "handwashing and hospital environmental control," as published in November 1985, which is hereby adopted by reference.

(c) Linens and resident clothing.

(1) The facility shall handle soiled linen and soiled resident clothing as little as possible and with minimum agitation to prevent gross microbial contamination of air and of persons handling the items.

(2) The facility shall place all soiled linen and resident clothing in bags or in carts immediately at the location where they were used. The facility shall not sort and pre-rinse linen and resident clothing in resident-care areas.

(3) The facility shall deposit and transport linen and resident clothing soiled with blood or body fluids in bags that prevent leakage.

(4) The facility shall wash linen with detergent in water of at least 160°F. The facility shall follow the manufacturers' operating directions for washing equipment.

(5) The facility may choose to wash linens and soiled resident clothing in water at less than 160°F if the following conditions are met:

(A) Temperature sensors and gauges capable of monitoring water temperatures to ensure that the wash water does not fall below 72°F are installed on each washing machine.

(B) The chemicals used for low temperature washing emulsify in 70°F water.

(C) The supplier of the chemical specifies low-temperature wash formulas in writing for the machines used in the facility.

(D) Charts providing specific information concerning the formulas to be used for each machine are posted in an area accessible to staff.

(E) The facility ensures that laundry staff receive in-service training by the chemical supplier on a routine basis, regarding chemical usage and monitoring of wash operations.

(F) Maintenance staff monitors chemical usage and wash water temperatures at least daily to ensure conformance with the chemical supplier's instructions.

(6) The facility shall use methods for transport and storing of clean linen that will ensure the cleanliness of

the linens. (Authorized by and implementing K.S.A. 39-932; effective Nov. 1, 1993; amended Feb. 21, 1997; amended Oct. 8, 1999.)

28-39-162a. Nursing facility physical environment; general requirements. (a) Except for a detached boiler, equipment room, laundry room, and storage spaces for yard and maintenance equipment and supplies and flammables, all units, areas, and rooms of the facility shall be within a single building under one roof and shall, at a minimum, contain the units, areas, and rooms listed in subsections (b) through (p) of this regulation.

(b) Nursing unit. A nursing unit shall consist of 60 or fewer beds with the following areas and rooms. Any facility constructed after February 15, 1977 shall have at least 80 percent of the beds located in rooms designed for one and two beds and at least five percent of the beds located in one-bed rooms, each equipped with a private toilet. A nursing unit shall contain the following areas and rooms:

(1) Resident rooms. Each resident room shall meet the following requirements.

(A) Each room shall accommodate not more than four residents.

(B) The minimum room area, exclusive of toilet rooms, closets, lockers, wardrobes, other built-in fixed items, alcoves, and vestibules, shall measure 100 square feet in one-bed rooms and 80 square feet per bed in multi-bed rooms. Facilities licensed before January, 1963 shall provide a minimum floor area per bed as follows:

- (i) One-bed rooms, 90 square feet per bed;
 - (ii) two-bed rooms, 80 square feet per bed; and
 - (iii) three- to four-bed rooms, 70 square feet per bed.
- (C) Each resident room shall have direct access to a corridor.

(D) Each bed in a multi-bed room shall have ceiling-suspended curtains that extend around the bed to provide total visual privacy in combination with adjacent walls and curtains.

(E) Curtain material shall be launderable and flame retardant.

(F) Each resident room shall have at least one window that opens for ventilation. The window area shall not be less than 12 percent of the gross floor area of the resident room. Interior window stool height shall not exceed three feet above the floor and shall be at least two feet six inches above exterior grade. Facilities constructed before February 15, 1977 shall not be required to comply with this paragraph.

(G) Each resident room shall have a floor at or above grade level. Any facility constructed before the effective date of these regulations shall not be required to comply with this paragraph.

(H) Room configuration shall be adequate to permit the beds to align parallel to the exterior wall with a minimum of three feet of clearance from the sides and foot of the beds to the nearest fixed obstruction. The room configuration shall be designed so that beds are not located more than two deep from the exterior window wall. Any facility constructed before February 15, 1977 shall not be required to meet the specifications in this paragraph.

(I) Each resident room shall have a separate bed for each resident. The bed shall be of appropriate size and height and shall contain the following:

- (i) A clean, comfortable mattress; and
- (ii) bedding appropriate to the weather and needs of the resident.

(J) Each resident room shall have functional furniture appropriate to the resident's needs.

(K) The facility shall provide an individual space in a fixed closet or wardrobe with doors for each bed. Closets shall have, for each bed, a minimum floor area of five square feet, a minimum depth of one foot 10 inches, and a separated shelf and hanging rod of not less than two feet six inches. At least one foot three inches of the hanging rod shall have sufficient clearance for full-length garments. The hanging rods and shelves shall be accessible to the resident. Facilities constructed before February 15, 1977 shall provide a fixed closet or wardrobe with a shelf and hanging rod accessible to residents.

(2) Toilet facility. A toilet room shall serve not more than four beds and shall be accessible without entry from the general corridor. A toilet room shall contain a toilet and a lavatory, unless a lavatory is provided in each resident room.

(A) The minimum area of a toilet room serving a resident room shall be 30 square feet with sufficient turning radius for a wheelchair.

(B) If a bathing unit is included, the facility shall provide additional space. Space occupied by the bathing unit shall not be included in the minimum dimensions stated in this regulation.

(C) Any facility constructed before February 15, 1977 shall provide the resident with access to toilet and bathing facilities from the general corridor or shall provide direct access from the resident room to toilet and bathing facilities.

(3) Each resident room in any facility constructed after February 15, 1977 shall not be located more than 150 feet from the nursing service areas required by subsection (c) of this regulation. Distance shall be measured from one foot outside the resident room door along the shortest line, in the general corridor where the resident room appears, to within one foot of the designated service area.

(4) Resident call system.

(A) The facility shall provide each resident bed with a resident call button that shall register at the nurses' station with a common audible signal and a visual signal. Any facility constructed after May 1, 1982 shall provide a visual signal indicating the resident room number at the nurses' station.

(B) A visual signal shall be located at the resident room corridor door.

(C) The facility shall provide visual and audible signals in clean and soiled workrooms and in the medication preparation rooms. Any facility constructed before May 1, 1982 shall not be required to provide audible signals in clean and soiled workrooms and medication preparation rooms.

(D) In multi-corridor units, the facility shall install additional visible signals at corridor intersections if the facility was constructed after February 15, 1977.

(E) The facility shall install a resident emergency call button next to each toilet, shower, and bathtub accessible to residents.

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(F) In any facility constructed after May 1, 1982, the emergency call system shall be operated by a cord pull that, when activated, turns on a light of a different color from that of the resident call system, over the corridor door at the site of the emergency.

(i) When the emergency call system is activated, it shall produce a rapidly flashing light and a repeating audible signal in the nurses' station, clean workroom, soiled workroom, and medication preparation rooms. Facilities constructed before May 1, 1982 shall not be required to have an audible signal or a rapidly flashing light.

(ii) The signals produced by the emergency call system shall be obviously different from those produced by the resident call system. Facilities constructed before May 1, 1982 shall not be required to have a different signal for the emergency call system.

(iii) The emergency call system shall continue to operate until it is manually reset at the site of origin.

(G) Resident call systems may include two-way voice communication. When a two-way system is used, it shall include all functions required in paragraph (b)(4) of this regulation and shall be equipped with an indicating light at each calling station that lights and remains lighted as long as the value circuit is operating.

(H) Each facility may use a wireless system to meet the requirements of this regulation, if the system meets both of the following criteria:

(i) When the resident call system is activated, an electronic device notifies direct care staff of the location at which the resident call system was activated.

(ii) Each nurses' station is equipped with a system that registers and documents the location of an activated resident call system.

(I) The resident call system selected shall be designed to ensure that staff are notified promptly if a resident is in need of assistance.

(c) Service areas or rooms. The service areas or rooms required in this regulation shall be located in each nursing unit and shall be accessible directly from the general corridor without passage through an intervening room or area, except medication preparation rooms. A service area or room shall not serve more than one nursing unit, except as otherwise indicated. The service areas and rooms specified shall provide space and equipment as prescribed in this regulation.

(1) Nurses' station.

(A) A nurses' station shall provide space for charting, records, a telephone, a resident call system, and an emergency call system signal register for rooms on the nursing unit.

(B) The nurses' station shall be located so that the corridors outside the doors of resident rooms are visible from the nurses' station. The facility may use television cameras and monitors to meet this requirement. Facilities constructed before February 15, 1977 shall not be required to comply with the requirements of this paragraph.

(2) Medication preparation room.

(A) A medication preparation room shall be equipped with the following:

(i) A work counter, lavatory or countertop sink, a refrigerator, and shelf space for separate storage and maintenance of residents' medications;

(ii) a door visible from the nurses' station, except any facility licensed before January, 1963; and

(iii) a door equipped with self-locking hardware and automatic door closures;

(B) The temperature in the medication room shall not exceed 85°F.

(C) Lighting shall be sufficient to provide 100 foot-candles at counter level.

(D) The medication preparation room shall contain a separate, locked, permanently affixed compartment for storage of controlled substances listed in K.S.A. 65-4107, and amendments thereto, and other drugs that, in the opinion of the consultant pharmacist, are subject to abuse.

(E) A medicine preparation room may serve more than 60 beds when a self-contained medication dispensing unit is used. The self-contained medication dispensing unit may be located at the nurses' station, in the clean workroom, in an alcove, or in other space convenient for staff control.

(3) Clean workroom. The facility shall provide a clean workroom for preparation, handling, storage, and distribution of clean or sterile materials and supplies.

(A) The room shall contain a work counter with sink or separate hand-washing lavatory and adequate shelving and cabinets for storage.

(B) Storage and preparation of food and beverages shall not be permitted in the clean workroom.

(C) The facility may store clean linen supplies in the clean workroom if sufficient shelving, cabinets, or cart-parking space is provided.

(D) Minimum room area shall be 80 square feet, with a minimum length or width of six feet. Any facility constructed before February 15, 1977 shall not be required to meet the requirements of this paragraph.

(E) The facility may provide additional rooms for storage of clean materials or supplies. These additional rooms shall not be required to have a counter or hand-washing facilities.

(4) Soiled workroom. The facility shall provide a soiled workroom for the disposal of wastes, collection of contaminated material, and the cleaning and sanitizing of resident care utensils.

(A) The soiled workroom shall contain a flushing rim clinic sink, a work counter, a two-compartment sink, a storage cabinet with a lock for sanitizing solutions and cleaning supplies used in the cleaning of resident care equipment, a covered waste receptacle, and a covered soiled linen receptacle. Any facility constructed before February 15, 1977 shall have a sink.

(B) Minimum room area shall be 80 square feet with a minimum length or width of six feet. Any facility constructed before February 15, 1977 shall not be required to comply with the requirements of this paragraph.

(C) The facility shall not store clean supplies, equipment, and materials in the soiled workroom.

(5) Clean linen storage. Clean linen storage shall be provided, with adequate shelving, cabinets, or cart space, and may be located in the clean workroom required in paragraph (c)(3) of this regulation.

(6) Nourishment area.

(A) Each facility constructed after February 15, 1977 shall provide a nourishment area. The nourishment area shall contain the following:

- (i) A sink equipped for hand-washing;
- (ii) equipment for serving nourishments between scheduled meals; and
- (iii) a refrigerator and storage cabinets.
- (B) The nourishment area may be located adjacent to the dietetic service area.
- (C) One nourishment area may serve more than one nursing unit. When the nourishment area serves more than one nursing unit, the nourishment area shall be centrally located for easy access from each of the nursing areas served.
- (7) Equipment storage room. Each facility constructed after February 15, 1977 shall provide an equipment storage room for the storage of resident care equipment.
 - (A) The room shall have a minimum space of 120 square feet plus one square foot for each resident bed in the nursing unit.
 - (B) If mechanical equipment or electrical panel boxes are located in the storage room, the facility shall provide additional space for access and servicing of the equipment.
 - (8) Wheelchair parking space. Each facility constructed after February 15, 1977 shall provide wheelchair parking space which shall be out of the path of normal traffic. The space shall not be included in determining the minimum required corridor width.
 - (9) Resident bathing facilities. The facility shall provide resident bathing facilities at the rate of one for each 15 beds that are not otherwise serviced by bathing facilities within resident rooms. A mechanical bathing unit may be counted as two bathing facilities to meet this requirement.
 - (A) Bathing facilities shall be located in rooms or areas with access to a toilet and lavatory without entering the general corridor system.
 - (B) The toilet and lavatory shall be accessible to and usable by the physically disabled and may serve physically disabled visitors.
 - (C) The toilet enclosure shall be in a visually enclosed area for privacy in use.
 - (D) Bathing facilities on each nursing unit shall include at least one shower, and there shall be at least one mechanical bathing unit in the facility. Any facility constructed before the effective date of this regulation shall not be required to have a mechanical bathing unit.
 - (E) Each bathing facility shall be located within a visually enclosed area for privacy during bathing, drying, and dressing with space for an attendant and wheelchair. Any facility constructed before February 15, 1977 shall not be required to provide space for an attendant.
 - (F) Each shower shall be at least four feet by four feet without curbs and shall be designed to permit use by a resident in a wheelchair. Any facility constructed before February 15, 1977 shall be designed so that showers can be used by a resident in a wheelchair.
 - (G) The facility shall provide a cabinet with a lock in the bathing area for storage of supplies.
 - (10) Janitor's closet. The facility shall provide a janitor's closet with a floor receptor or service sink, hot and cold water, a shelf, and provisions for hanging mops. Any facility constructed before February 15, 1977 shall provide

at least one janitor's closet in the facility with a floor receptor or service sink, and storage space for janitorial equipment and supplies.

(11) Drinking fountain. The facility shall provide at least one drinking fountain that is accessible to persons in wheelchairs. Any facility constructed before February 15, 1977 shall not be required to provide a drinking fountain.

(12) The facility shall provide a staff toilet room with toilet and lavatory. Any facility constructed before February 15, 1977 shall not be required to provide a staff toilet room.

(d) Living, dining, and recreation areas.

(1) The facility shall provide space for living, dining, assisted dining, and recreation at a rate of 27 square feet per resident. At least 14 square feet of this space shall be utilized for the dining area.

(2) Each facility constructed before February 15, 1977 shall provide space for living, dining, and recreation at a rate of 20 square feet per resident capacity of the facility. At least 10 square feet per resident shall be utilized as dining space.

(3) The facility shall provide window area for living and dining areas at a minimum of 10 percent gross floor area of the living and dining area. The window area requirement shall not be met by the use of skylights. Windowsill height shall not exceed three feet above the floor for at least $\frac{1}{2}$ of the total window area. Any facility constructed before February 15, 1977 shall not be required to meet the provisions of this paragraph.

(e) Quiet room. Each facility shall provide a quiet room, with a minimum floor area of 80 square feet, unless each resident room in the facility is a one-bed room. Residents shall have access to the quiet room for reading, meditation, solitude, or privacy with family and other visitors. Any facility constructed before February 15, 1977 shall not be required to provide a quiet room.

(f) Examination room. Each facility shall provide an examination room, unless each resident room is a one-bed resident room.

(1) One examination room may serve more than one nursing unit.

(2) Room area shall be a minimum of 120 square feet with a minimum length and width of 10 feet.

(3) The room shall contain either a lavatory or counter and sink equipped for hand washing, an examination table, and a desk or shelf for writing.

(4) The examination room may be located in the rehabilitation therapy room and shall be equipped with cubicle curtains around the space and facilities listed in paragraphs (2) and (3) of this subsection.

(5) If the examination room is located in the rehabilitation therapy room, the facility shall provide additional space appropriate to the functional use of the area.

(6) Any facility constructed before February 15, 1977 shall not be required to provide an examination room.

(g) Rehabilitation therapy room. Each facility shall provide a room for the administration and implementation of rehabilitation therapy.

(1) The facility shall provide a lavatory and an enclosed storage area for therapeutic devices.

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(2) Each facility with 60 or fewer beds shall provide a rehabilitation therapy room with a minimum of 200 square feet. Each facility with more than 60 beds shall provide 200 square feet plus two square feet for each additional bed over 60, to a maximum of 655 square feet.

(3) Each facility constructed before February 15, 1977 shall provide a rehabilitation therapy room. The facility shall provide a lavatory and an enclosed storage area for therapeutic devices.

(h) Activities room. Each facility shall provide an activities room or area for crafts and occupational therapy.

(1) The room shall contain a work counter with a sink equipped for hand washing.

(2) When a room is used for multiple purposes, there shall be sufficient space to accommodate all activities and prevent interference between activities.

(3) Each facility with 60 or fewer beds shall provide a room with a minimum of 200 square feet. Each facility with more than 60 beds shall provide 200 square feet plus two square feet for each additional bed over 60.

(4) The facility shall provide lockable cabinets for storage of supplies.

(5) Each facility constructed before February 15, 1977 shall provide an activities area with a work counter and storage cabinet. A hand-washing facility shall be accessible to residents who use this room or area.

(i) Personal care room. Each facility shall provide a separate room or area for hair care and grooming of residents.

(1) The facility shall provide at least one shampoo sink, space for one hair dryer and work space, and a lockable cabinet for supplies.

(2) Each facility shall provide a room with a size appropriate to the number of residents to be served. The facility shall exhaust room air to the outside.

(3) Each facility constructed before February 15, 1977 shall provide a separate room or area for hair care and grooming of residents. The facility shall provide at least one shampoo sink, space for one hair dryer, and work space.

(j) Administrative and public areas.

(1) Each facility constructed after February 15, 1977 shall provide the following administrative and public areas:

(A) An entrance at grade level to accommodate persons in wheelchairs;

(B) an entrance sheltered from the weather;

(C) a lobby with communication to the reception area or information desk;

(D) a toilet and lavatory accessible to and usable by a person in a wheelchair;

(E) at least one public toilet for each facility of 60 or fewer beds. Each facility of more than 60 beds shall provide at least two public toilets;

(F) a public telephone accessible to a person in a wheelchair;

(G) an administrator's office; and

(H) storage space for supplies and office equipment.

(2) Each facility constructed before February 15, 1977 shall provide the following administrative and public areas:

(A) An entrance at grade level able to accommodate persons in wheelchairs;

(B) one public toilet and lavatory;

(C) one toilet and lavatory accessible to a person in a wheelchair;

(D) a public telephone accessible to a person in a wheelchair; and

(E) a general office for administration.

(k) General storage.

(1) The facility shall provide a general storage room or rooms concentrated in generally one area. The room or rooms shall have an area of no fewer than five square feet per bed.

(2) Each facility constructed before February 15, 1977 shall provide a general storage room or rooms.

(l) Outside storage. The facility shall provide a room that opens to the outside or that is located in a detached building for the storage of tools, supplies, and equipment used for yard and exterior maintenance.

(m) Dietary areas. The facility shall provide dietary service areas that are adequate in relation to the size of the facility. New construction, equipment, and installation shall comply with the standards specified in health, education, and welfare (HEW) 1976 publication no. FDA 78-2081, "food service sanitation manual," hereby adopted by reference. The facility shall design and equip food service facilities to meet the requirements of the residents. A facility shall provide the following elements in a size appropriate to the implementation of the type of food service system employed.

(1) There shall be a control station for receiving food supplies.

(2) There shall be a storage space for food for at least four days.

(3) There shall be food preparation facilities. Conventional food preparation systems shall include space and equipment for preparing, cooking, baking, and serving. Convenience food service systems, including frozen prepared meals, bulk-packaged entrees, individually packaged portions, or a system using contractual commissary services, shall include space and equipment for thawing, portioning, cooking, and baking.

(4) There shall be a two-compartment sink for food preparation. Each facility constructed before February 15, 1977 shall be required to have a sink for food preparation.

(5) There shall be a lavatory in the food preparation area.

(6) There shall be space for equipment for resident meal service, tray assembly, and distribution.

(7) There shall be a ware-washing area apart from and located to prevent contamination of food preparation and serving areas. The area shall include commercial-type dishwashing equipment. Space shall be provided for receiving, scraping, sorting, and stacking soiled tableware and for transferring clean tableware to the using area.

(8) There shall be a three-compartment deep sink for manual cleaning and sanitizing.

(9) Exhaust ventilation for the ware-washing room and dietary dry storage area shall conform to K.A.R. 28-39-162c, table 1.

(10) There shall be a sanitizing provision for cans, carts, and mobile tray conveyors in any facility constructed after February 15, 1977.

(11) There shall be a waste storage area in a separate room or an outside area that is readily accessible for direct pickup or disposal.

(12) There shall be office workspace for the dietitian or dietetic services supervisor.

(13) A staff toilet and lavatory shall be accessible to the dietary staff.

(14) Each facility constructed after February 15, 1977 shall contain a janitor's closet located within the dietary department, which shall contain a floor receptor or service sink, and storage space for housekeeping equipment and supplies.

(n) On-site laundry.

(1) If the laundry is to be processed on-site, each facility constructed after February 15, 1977 shall comply with the following provisions.

(A) Doors of the laundry rooms shall not open directly onto the nursing unit.

(B) There shall be a soiled laundry receiving, holding, and sorting room accessible from the service corridor or from the outside and furnished with containers with tight-fitting lids for soiled laundry.

(C) There shall be a laundry processing room with commercial-type equipment and with the capability to process laundry sufficient to meet the residents' needs at all times.

(D) The facility shall provide a lavatory in the processing area.

(E) There shall be a janitor's closet containing either a floor receptor or service sink and storage area for housekeeping equipment and supplies that opens into the laundry processing area.

(F) There shall be a clean laundry handling, storage, issuing, mending, and holding room with egress that does not require passing through the processing or soiled laundry room.

(G) The processing room, soiled laundry room, and clean laundry room shall be physically separate.

(H) The facility shall provide storage space for laundry supplies.

(I) Exhaust ventilation shall conform to K.A.R. 28-39-162c, table 1.

(2) If laundry services are provided on-site in facilities constructed before February 15, 1977, the facility shall comply with the following provisions.

(A) The facility shall provide a laundry processing room with space for receiving, holding, and sorting soiled laundry, and with equipment capable of processing seven days' laundry needs within a regularly scheduled work week. The facility shall keep the soiled and clean laundry functionally separate.

(B) The facility shall provide a space for holding soiled laundry that is exhausted to the outside.

(C) The facility shall provide hand-washing facilities within the laundry area.

(D) The facility shall provide clean laundry processing and storage rooms.

(3) If laundry is to be processed off-site, the following shall be provided:

(A) A soiled laundry holding room that is equipped with containers with tightly fitting lids and that is exhausted to the outside; and

(B) clean laundry receiving, holding, inspection, and storage rooms.

(o) Employees' service areas. Each facility constructed after February 15, 1977 shall provide locker rooms, lounges, toilets, or showers to accommodate the needs of all personnel and volunteers in addition to those required for certain departments.

(p) Janitor's closets. In addition to the janitor's closets required in paragraphs (c)(10) and (m)(1)(E), the facility shall provide sufficient janitor's closets throughout the facility to maintain a clean and sanitary environment.

(1) Each janitor's closet shall contain either a floor receptor or service sink and storage space for housekeeping equipment and supplies.

(2) Each facility constructed before February 15, 1977 shall have at least one janitor's closet.

(q) Engineering service and equipment areas. Each facility constructed after February 15, 1977 shall be equipped with the following areas:

(1) A maintenance office and shop;

(2) an equipment room or separate building for boilers, mechanical equipment, and electrical equipment; and

(3) a storage room for building maintenance supplies. The storage room may be a part of the maintenance shop in facilities of 120 or fewer beds.

(r) Waste processing services. The facility shall provide space and equipment for the sanitary storage and disposal of waste by incineration, mechanical destruction, compaction, containerization, or removal, or by a combination of these techniques. (Authorized by and implementing K.S.A. 39-932; effective Nov. 1, 1993; amended Feb. 21, 1997; amended Oct. 8, 1999.)

28-39-162c. Nursing facility physical environment; mechanical and electrical requirements. (a) Free-standing buildings. Separate freestanding buildings housing the boiler plant, laundry, shops, or general storage may be of unprotected noncombustible construction, protected noncombustible construction, or fire-resistive construction.

(b) Elevators. Throwover capability for elevators shall be provided to allow temporary operation for release of persons trapped between floors.

(c) Inspections and tests. The individual or company installing mechanical equipment shall inspect and test the equipment, and, if applicable, the owner shall be furnished written certification that the installation meets the requirements set forth in K.A.R. 28-39-162c and all applicable safety regulations and codes.

(d) Mechanical requirements. The facility shall meet mechanical requirements that ensure the safety, comfort, and convenience of residents and other occupants.

(1) Each facility constructed or modified on or before May 1, 1982 shall meet the following requirements:

(A) All mechanical systems shall be tested, balanced, and operated to demonstrate to the owner or representative of the owner that the installation and performance of the systems conform to the requirements of the plans

(continued)

and specifications before completion and acceptance by the facility.

(B) Upon completion of the contract, the owner shall have a complete set of manufacturer's operating, maintenance, and preventive maintenance instructions, parts list with numbers, and a description for each piece of equipment.

(C) The owner shall have complete instructions in the use of systems and equipment.

(2) Any facility constructed or modified before May 1, 1982 shall not be required to provide evidence of testing and documentation of mechanical equipment installed before May 1, 1982.

(e) Thermal and acoustical insulation.

(1) Each facility constructed after February 15, 1982 shall provide thermal or acoustical insulation for the following within the building:

(A) Boilers, smoke breeching, and stacks;

(B) steam supply and condensate return piping;

(C) piping for water 120°F or above, and all hot water heaters, generators, and converters;

(D) chilled water, refrigerant, other process piping and equipment operating with fluid temperatures below ambient dew point;

(E) water supply and drainage piping on which condensation may occur; and

(F) air ducts and casing with outside surface temperatures below ambient dew point.

(2) Insulation may be omitted from hot water and steam condensate piping not subject to contact by residents.

(3) Linings in air ducts and equipment in facilities constructed after February 15, 1977 shall meet erosion test methods prescribed in underwriters laboratories publication no. 181, "factory-made air ducts and air connectors," as published on April 6, 1990, and hereby adopted by reference.

(4) Each facility constructed before May 1, 1982 shall provide thermal insulation on all ducts, pipes, and equipment having outside surface temperatures below ambient dew point when in use and shall include an exterior vapor barrier.

(A) The facility shall install insulation on all hot water and steam condensate piping that is subject to contact by residents.

(B) Insulation on cold surfaces shall include an exterior vapor barrier.

(f) Steam and hot water systems.

(1) Each boiler shall have the capacity to supply the normal requirements of all systems and equipment based upon the net ratings established in "I = B = R ratings for boilers, baseboard radiation and finned tube (commercial) radiation," as published on January 1, 1992, by the hydronics institute and hereby adopted by reference.

(2) The number and arrangement of boilers shall ensure that when one boiler breaks down or routine maintenance requires that one boiler be temporarily taken out of service, the capacity of the remaining boiler or boilers shall be at least 70 percent of the total required capacity, except that in areas with a design temperature of 20°F or more, the remaining boiler or boilers shall not be required to include boiler capacity for space heating.

(3) Boiler feed pumps, heating circulating pumps, condensate return pumps, and fuel oil pumps shall be connected and installed to provide normal and standby service.

(4) Supply and return mains of cooling, heating, and process systems shall be valved as required to isolate major sections of each system. Pieces of equipment shall be provided with isolation valves to allow removal of equipment without interfering with the operation of the remainder of the system.

(5) Any facility constructed before February 15, 1977 shall not be required to comply with K.A.R. 28-39-162c subsection (e).

(g) Heating, air-conditioning, and ventilation systems.

(1) Heating, air-conditioning, and ventilation system design specifications for facilities constructed after February 15, 1977 shall be as follows:

(A) The system shall be designed to maintain a year-round indoor temperature range in resident care areas of 70°F to 85°F. The winter outside design temperature of the facility shall be -10°F dry bulb, and the summer outside design temperature of the facility shall be 100°F dry bulb.

(B) All air-supply and air-exhaust systems shall be mechanically operated. All fans serving exhaust systems shall be located at the discharge end of the system. The ventilation rates shown in Table 1 shall be the minimum acceptable rates and shall not be construed as precluding the use of higher ventilation rates. The system shall meet the following requirements:

(i) Outdoor air intakes shall be located as far as practical and no fewer than 25 feet from exhaust outlets of ventilating systems, combustion equipment stacks, medical-surgical vacuum systems, plumbing vent stacks, or from areas that may collect vehicular exhaust or other noxious fumes. The bottom of outdoor air intakes serving central systems shall be located as high as practical, and no fewer than six feet above ground level or, if installed above the roof, no fewer than three feet above roof level.

(ii) The ventilation system shall be designed to provide the pressure relationship shown in Table 1.

(iii) The bottoms of ventilation openings shall be no fewer than three inches above the floor of any room.

(iv) Corridors shall not be used to supply air to, or exhaust air from any room, except that air from corridors may be used to ventilate bathrooms, toilet rooms, janitors' closets, and small electrical or telephone closets opening directly onto corridors.

(v) All central ventilation or air-conditioning systems shall be equipped with filters having minimum efficiencies of 25 percent. All filter efficiencies shall be average dust spot efficiencies tested in accordance with American society of heating, refrigeration, and air-conditioning engineers (ASHRAE) standard 52-76, as in effect on July 1, 1981, and hereby adopted by reference. Filter frames shall be durable and carefully dimensioned and shall provide an air-tight fit with the enclosing ductwork. All joints between filter segments and the enclosing ductwork shall be gasketed or sealed to provide a positive seal against air leakage.

(vi) Air-handling duct systems shall meet the require-

Table 1
Pressure Relationships and Ventilation of Certain Areas
Long Term Care Facilities

Area Designation	Pressure Relationship to Adjacent Areas	Minimum Air Changes of Outdoor Air Per Hour Supplied to Room	Minimum Total Air Changes Per Hour Supplied to Room	All Air Exhausted Directly to Outdoors	Recirculated Within Room Units
Resident Room	Equal	2	2	Optional	Optional
Resident Area Corridor	Equal	Optional	2	Optional	Optional
Examination and Treatment Room	Equal	2	6	Optional	Optional
Physical Therapy	Negative	2	6	Optional	Optional
Activities Room	Negative	2	6	Optional	Optional
Soiled Workroom	Negative	2	10	Yes	No
Medicine Preparation and Clean Workroom	Positive	2	4	Optional	Optional
Toilet Room	Negative	Optional	10	Yes	No
Bathroom	Negative	Optional	10	Yes	No
Janitors' Closets	Negative	Optional	10	Yes	No
Linen and Trash Chute Rooms	Negative	Optional	10	Yes	No
Food Preparation Center	Equal	2	10	Yes	No
Warewashing Room	Negative	Optional	10	Yes	No
Dietary Dry Storage	Equal	Optional	2	Yes	No
Laundry, Processing Room	Equal	2	10	Yes	No
Soiled Linen Sorting and Storage	Negative	Optional	10	Yes	No
Clean Linen Storage	Positive	Optional	2	Optional	Optional
Personal Care Room	Negative	2	6	Yes	No
Designated Smoking Area	Negative	Optional	20	Yes	No

ments of the national fire protection association (NFPA) standard 90 A, as in effect on February 12, 1993, and is hereby adopted by reference.

(vii) Fire and smoke dampers shall be constructed, located, and installed in accordance with the requirements of national fire protection association (NFPA) standard 90 A, as in effect on February 12, 1993, except that all systems, regardless of size, that serve more than one smoke or fire zone, shall be equipped with smoke detectors that shut down fans automatically as delineated in paragraph 4-4.3 of that standard. Access for maintenance shall be provided at all dampers. Supply and exhaust ducts that pass through a required smoke barrier and through which smoke can be transferred to another area shall be provided with dampers at the barrier, controlled to close automatically to prevent the flow of air or smoke in either direction when the fan that moves the air through the duct stops. Dampers shall be equipped with remote control reset devices, except that manual reopening shall be permitted if dampers are conveniently located.

(viii) A return air duct that passes through a required smoke barrier shall be provided with a damper at the barrier that is actuated by a detector of smoke or products of combustion other than heat. The damper shall also be operated by detectors used to activate door-closing devices in the smoke partition or by detectors located to sense smoke in the return air duct from the smoke zone.

(ix) Exhaust hoods in food preparation areas shall have a minimum exhaust rate of 50 cfm per square foot of face area. The face area shall be the open area from the exposed perimeter of the hood to the average perimeter of the cooking surfaces. Hoods over cooking ranges shall

be equipped with baffled grease filters and fire-extinguishing systems. Clean-out openings shall be provided every 20 feet or fewer feet in horizontal exhaust duct systems serving these hoods.

(C) Boiler rooms shall be provided with sufficient outdoor air to maintain combustion rates of equipment and to limit temperatures in working stations to not more than 97°F effective temperature (E.T.):

(D) Air-handling units shall be located to permit access for service and filter maintenance. Mechanically operated air-handling units shall not be located in attics, interstitial space above ceilings, or other difficult access areas.

(2) Heating, air-conditioning, and ventilating systems in facilities constructed before February 15, 1977 shall meet the following requirements:

(A) The system shall be designed to maintain a year-round indoor temperature range in resident care areas of 70°F to 85°F. The winter outside design temperature of the facility shall be -10°F dry bulb, and the summer outside design temperature of the facility shall be 100°F dry bulb.

(B) Insulation shall be installed on all hot water and steam condensate piping that is subject to contact by residents.

(C) The ventilation system shall be designed to provide the pressure relationship shown in table 1.

(h) Plumbing and piping systems.

(1) Plumbing and piping systems in facilities constructed after February 15, 1977 shall meet the following requirements:

(A) The material used for plumbing fixtures shall be of non-absorptive, acid-resistant material.

(continued)

(B) The water supply spout for lavatories and sinks required in resident care areas shall be mounted so that the discharge point is a minimum distance of five inches above the rim of the fixture.

(C) The water supply spout for lavatories and sinks used by medical and nursing staff shall be trimmed with a valve that can be operated without the use of hands. If blade handles are used, the blades shall not exceed six inches on clinical sinks and 4½ inches in all other areas. This requirement shall not apply to lavatories in resident bedrooms and toilet rooms.

(D) Clinical sinks shall have an integral trap in which the upper portion of a visible trap seal provides a water surface.

(E) The facility shall provide nonslip surfaces in all shower bases and tubs.

(F) Water supply systems shall meet the following requirements:

(i) Systems shall be designed to supply water at sufficient pressure to operate all fixtures and equipment during maximum demand periods.

(ii) Water service mains, branch mains, risers, and branches to groups of fixtures shall be valved. Stop valves shall be provided at fixtures.

(iii) Backflow prevention devices or vacuum breakers shall be installed on hose bibbs, janitors' sinks, and bedpan flushing attachments, and on fixtures to which hoses or tubing can be attached.

(iv) Flush valves installed on plumbing fixtures shall be of a quiet operating type and shall be equipped with silencers.

(v) Water distribution systems shall be arranged to provide hot water at hot water outlets at all times. A maximum variation of 98°F to 120°F shall be acceptable at bathing facilities and lavatories in resident use areas.

(G) Hot water heating equipment shall have sufficient capacity to supply hot water at temperatures and amounts indicated below. Water temperature shall be measured at the hot water point of use or at the inlet to processing equipment.

	Clinical	Dietary	Laundry
Temperature (°F)	120 (Maximum)	120 (Minimum)	120 (Minimum)

(H) Building sewers shall discharge into a community sewerage system or a sewerage system having a permit from the department of health and environment.

(2) Each facility constructed before February 15, 1977 shall comply with the requirements found in paragraphs (h) (1) (E), (F), and (G) of this regulation.

(i) Electrical requirements. Each facility shall meet electrical requirements that ensure the safety, comfort, and convenience of residents and other occupants.

(1) Each facility constructed after February 15, 1977 shall comply with the following requirements:

(A) The facility shall install all materials, including equipment, conductors, controls, and signaling devices, to provide a complete electrical system with the characteristics and capacity to supply electricity to the electrical equipment shown in the specifications or indicated on the plans. All materials shall be listed as complying with available standards of underwriters laboratories, inc. or other nationally recognized testing laboratories.

(B) Switchboards and power panels.

(i) Circuit breakers or fusible switches that provide disconnecting means and overcurrent protection for conductors connected to switchboards and panelboards shall be enclosed or guarded to provide a dead-front type of assembly.

(ii) The main switchboard shall be located in a separate enclosure.

(iii) Switchboards, power panels, safety switches, panelboards, and other electrical distribution equipment shall be located in spaces accessible only to facility-authorized persons, or shall have locking fronts.

(iv) Switchboards shall be convenient for use, readily accessible for maintenance, clear of traffic lanes, and in dry ventilated space, free of corrosive fumes or gases.

(v) Overload protective devices shall be suitable for operating properly in ambient temperature conditions.

(C) Panelboards. Panelboards serving lighting and appliance circuits shall be located on the same floor as the circuits they serve. This requirement shall not apply to emergency system circuits.

(D) Lighting.

(i) Each space occupied by persons, machinery, equipment within the buildings, and approaches to buildings and parking lots shall have lighting.

(ii) Resident rooms shall have general lighting and night lighting. The facility shall provide a reading light for each resident. At least one light fixture for night lighting shall be switched at the entrance to each resident's room. All switches for control of lighting in resident areas shall be of the quiet operating type.

(iii) Minimum lighting intensity levels shall be those levels required in Table 2.

(iv) Portable lamps shall not be an acceptable light source except as specifically permitted in Table 2.

(v) Each corridor and stairway shall remain lighted at all times.

(vi) The facility shall equip each light located in an area accessible to a resident with a shade, globe, grid, or glass panel.

(E) Receptacles.

(i) Each resident bedroom shall have at least one duplex-grounding type receptacle on each side of the head of each bed and another duplex-grounding type receptacle on another wall. A television convenience outlet shall be located on at least one wall.

(ii) Duplex receptacles for general use shall be installed approximately 50 feet apart in all corridors and a maximum of 25 feet from the ends of corridors.

(F) Equipment installation in hydrotherapy areas. The electrical circuit or circuits to fixed or portable equipment in hydrotherapy units shall have five milliamperes ground-fault interrupters.

(2) Each facility constructed before February 15, 1977 shall meet the following electrical requirements:

(A) Each space occupied by persons, machinery, and equipment within the buildings, each approach to buildings, and each parking lot shall have lighting.

(B) Resident bedrooms shall have general lighting and night lighting. The facility shall provide a reading light for each resident.

(C) Minimum lighting intensity levels shall be those levels required in Table 2.

(D) Portable lamps shall not be an acceptable light source except as specifically permitted in Table 2.

Table 2
Artificial Light Requirements
in Nursing Facilities

Place	Light Measured in Foot-Candles	Where Measured
Kitchen and other food preparation and serving areas	70	Counter level
Dining room	25	Table level
Living room or recreation room General	15	Three feet above floor
Reading and other specialized areas (may be portable lamp)	50	Chair or table level
Nurses' station and office General	20	Three feet above floor
Desk and charts	50	Desk level
Clean workroom	30	Counter level
Medication room	100	Counter level
Central bath and showers	30	Three feet above floor
Resident's room General	10	Three feet above floor
Bed	30	Mattress top level, at bed wall to 3'-0" out from bed wall.
Laundry	30	Three feet above floor
Janitor's closet	15	Three feet above floor
Storage room General	5	Three feet above floor
Disinfectant or cleaning agent storage area	15	Three feet above floor
Corridors	10	Floor level
Stairways	20	Step level
Exits	5	Floor level
Heating plant space	5	Floor level

(E) Each corridor and stairway shall remain lighted at all times.

(F) Each light located in an area accessible to a resident shall be equipped with a shade, globe, grid, or glass panel.

(G) Resident rooms shall have at least one duplex-grounding type receptacle.

(H) The electrical circuit or circuits to fixed or portable equipment in hydrotherapy units shall be provided with five milliampere ground-fault interrupters.

(j) Emergency power. An emergency electrical power system shall supply power adequate for the following:

(1) Lighting all emergency entrances and exits, exit signs, and exit directional lights;

(2) equipment to maintain the fire detection, fire alarm, and fire extinguishing systems;

(3) exterior door monitors;

(4) life support systems in the event that the normal electrical supply is interrupted. When life support systems are used, the facility shall provide emergency electrical power with an emergency generator as defined in national fire protection association (NFPA) 99, standard for health care facilities, as in effect on February 12, 1993, that is located on the premises;

(5) a resident call system;

(6) a fire pump, if installed;

(7) general illumination and selected receptacles in the vicinity of the generator set; and

(8) a paging or speaker system if the system is intended for communication during an emergency.

(9) Facilities constructed before February 15, 1977 shall not be required to provide emergency electrical power to the resident call system.

(k) Space and equipment. The facility shall provide sufficient space and equipment in dining, health services, recreation, and program areas to enable staff to provide residents with needed services as required by these regulations and as identified in each resident's plan of care.

(l) Door monitors.

(1) The facility shall install an electrical monitoring system on any door that is accessible to residents and that meets one of the following criteria:

(A) The door opens to the exterior of the building.

(B) The door opens into an area of the building licensed as an assisted living or a residential health care facility.

(C) The door opens into an area of the building that is not licensed.

(2) An electrical monitoring system shall not be required at a door that opens into an assisted living or residential health care facility when all doors to the exterior of the building are equipped with a monitoring system meeting the requirements specified in paragraph (m)(3).

(3) The electrical monitoring system shall meet the following provisions:

(A) Alerts personnel that a monitored door has been opened; and

(B) remains activated until manually reset by facility staff.

(4) The monitoring system may be operated to permit total or selective disabling during daylight hours when there is visual control of the door by facility staff.

(5) The electrical monitoring system selected shall be designed to prevent residents who wander from leaving the building without awareness of the staff.

(m) Any ice dispenser accessible to residents shall dispense ice directly into a container.

(n) Preventive maintenance program.

(1) The facility shall implement a preventive maintenance program to ensure all of the following:

(A) Electrical and mechanical equipment is maintained in good operating condition.

(continued)

(B) The interior and exterior of the building are safe, clean, and orderly.

(C) Resident care equipment is maintained in a safe, operating, and sanitary condition.

(p) Building and equipment supplies shall be stored in areas not accessible to residents.

(q) Housekeeping services.

(1) The facility shall provide housekeeping services to maintain a safe, sanitary, and comfortable environment for residents and to help prevent the development or transmission of infections.

(2) The facility shall be kept free of insects, rodents, and vermin.

(3) The grounds shall be free from accumulation of rubbish and other health or safety hazards.

(4) Wastebaskets shall be located at all lavatories. (Authorized by and implementing K.S.A. 39-932; effective Nov. 1, 1993; amended Feb. 21, 1997; amended Oct. 8, 1999.)

28-39-163. Administration. Each nursing facility shall be administered in a manner that enables it to use its resources effectively and efficiently to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident. (a) Governing body.

(1) Each facility shall have a governing body or shall designate a group of people to function as a governing body. The governing body shall be legally responsible for establishing and implementing policies regarding the management and operation of the facility.

(2) The governing body shall appoint an administrator who meets the following criteria:

(A) Is licensed by the state; and

(B) has full authority and responsibility for the operation of the facility and compliance with licensing requirements.

(3) The licensee shall adopt a written position description for the administrator that includes responsibility for the following:

(A) Planning, organizing, and directing the operation of the facility;

(B) implementing operational policies and procedures for the facility; and

(C) authorizing, in writing, a responsible employee 18 years old or older to act on the administrator's behalf in the administrator's absence.

(4) Each facility may request approval from the department for an administrator to supervise more than one nursing facility. Each request shall be submitted, in writing, by the governing bodies of the facilities on a form approved by the department. Each facility shall meet all of the following conditions:

(A) The facilities are in a proximate location that would facilitate on-site supervision daily, if needed.

(B) The combined resident capacity does not exceed 120 residents.

(C) The administrator appointed to operate the facilities has had at least two years of experience as an administrator of a nursing facility and has demonstrated the ability to assure the health and safety of residents.

(D) When a change in administrator occurs, the facilities submit the credentials of the proposed new administrator for approval by the department.

(b) Policies and procedures.

(1) Each licensee shall adopt and enforce written policies and procedures to ensure all of the following:

(A) Each resident attains or maintains the highest practicable physical, mental, and psychosocial well-being.

(B) Each resident is protected from abuse, neglect, and exploitation.

(C) The rights of residents are proactively assured.

(2) The facility shall revise all policies and procedures as necessary and shall review all policies and procedures at least annually.

(3) Policies and procedures shall be available to staff at all times. Policies and procedures shall be available, on request, to any person during normal business hours. The facility shall post a notice of availability in a readily accessible place for residents.

(c) Power of attorney and guardianship. Anyone employed by or having a financial interest in the facility, unless the person is related by marriage or blood within the second degree to the resident, shall not accept a power of attorney, a durable power of attorney for health care decisions, guardianship, or conservatorship.

(d) Reports. Each administrator shall submit to the licensing agency, not later than 10 days following the period covered, a semiannual report of residents and employees. The administrator shall submit the report on forms provided by the licensing agency. The administrator shall submit any other reports as required by the licensing agency.

(e) Telephone. The facility shall maintain at least one non-coin-operated telephone accessible to residents and employees on each nursing unit for use in emergencies. The facility shall post adjacent to this telephone the names and telephone numbers of persons or places commonly required in emergencies.

(f) Smoking. If smoking is permitted, there shall be designated smoking areas.

(1) The designated areas shall not infringe on the rights of nonsmokers to reside in a smoke-free environment.

(2) The facility shall provide areas designated as smoking areas both inside and outside the building.

(g) Staff development and personnel policies. The facility shall provide regular performance review and in-service education of all employees to ensure that the services and procedures assist residents to attain and maintain their highest practicable level of physical, mental, and psychosocial functioning.

(1) The facility shall regularly conduct and document an orientation program for all new employees.

(2) Orientation of direct care staff shall include review of the facility's policies and procedures and evaluation of the competency of the direct care staff to perform assigned procedures safely and competently.

(3) The facility shall provide regular, planned in-service education for all staff.

(A) The in-service program shall provide all employees with training in fire prevention and safety, disaster procedures, accident prevention, resident rights, psychosocial needs of residents, and infection control.

(B) The facility shall provide direct care staff with in-service education in techniques that assist residents to

function at their highest practicable physical, mental, and psychosocial level.

(C) Direct care staff shall participate in at least 12 hours of in-service education each year. All other staff shall participate in at least eight hours of in-service education each year.

(D) The facility shall maintain documentation of in-service education offerings. Documentation shall include a content outline, resume of the presenter, and record of staff in attendance.

(E) The facility shall record attendance at in-service education in the employee record of each staff member.

(h) Professional staff qualifications.

(1) The facility shall employ on a full-time, part-time, or consultant basis any professionals necessary to carry out the requirements of these regulations.

(2) The facility shall document evidence of licensure, certification, or registration of full-time, part-time, and consultant professional staff in employee records.

(3) The facility shall perform a health screening, including tuberculosis testing, on each employee before employment or not later than seven days after employment.

(i) Use of outside resources. Arrangements or agreements pertaining to services furnished by outside resources shall specify in writing that the facility assumes responsibility for the following:

(1) Obtaining services that meet professional standards and principles that apply to professionals providing services; and

(2) assuring the timeliness of the services.

(j) Medical director.

(1) The facility shall designate a physician to serve as medical director.

(2) The medical director shall be responsible for the following:

(A) Implementation of resident care policies reflecting accepted standards of practice;

(B) coordination of medical care in the facility; and

(C) provision of consultation to the facility staff on issues related to the medical care of residents.

(k) Laboratory services. The facility shall provide or obtain clinical laboratory services to meet the needs of its residents. The facility shall be responsible for the quality and timeliness of the services.

(1) If the facility provides its own clinical laboratory services, it shall meet all of the following requirements:

(A) The services shall meet applicable statutory and regulatory requirements for a clinical laboratory.

(B) The facility staff shall follow manufacturer's instructions for performance of the test.

(C) The facility shall maintain a record of all controls performed and all results of tests performed on residents.

(D) The facility shall ensure that staff who perform laboratory tests do so in a competent and accurate manner.

(2) If the facility does not provide the laboratory services needed by its residents, the facility shall have written arrangements for obtaining these services from a laboratory as required in 42 CFR 483.75(j), as published on October 1, 1993, and hereby adopted by reference.

(3) All laboratory services shall be provided only on the order of a physician.

(4) The facility shall ensure that the physician ordering the laboratory service is notified promptly of the findings.

(5) The facility shall ensure that the signed and dated clinical reports of the laboratory findings are documented in each resident's clinical record.

(6) The facility shall assist the resident, if necessary, in arranging transportation to and from the source of laboratory services.

(l) Radiology and other diagnostic services. The facility shall provide or obtain radiology and other diagnostic services to meet the needs of its residents.

(1) If the facility provides its own radiology and diagnostic services, the services shall meet applicable statutory and regulatory requirements for radiology and other diagnostic services.

(2) If the facility does not provide the radiology and diagnostic services needed by its residents, the facility shall have written arrangements for obtaining these services from a licensed provider or supplier.

(3) All radiology and diagnostic services shall be provided only on the order of a physician.

(4) The facility shall ensure that the physician ordering the radiology or diagnostic services is notified promptly of the findings.

(5) The facility shall document signed and dated clinical reports of the radiological or diagnostic findings in the resident's clinical record.

(6) The facility shall assist the resident, if necessary, in arranging transportation to and from the source of radiology or diagnostic services.

(m) Clinical records.

(1) The facility shall maintain clinical records on each resident in accordance with accepted professional standards and practices. The records shall meet the following criteria:

(A) Be complete;

(B) be accurately documented; and

(C) be systematically organized.

(2) Clinical records shall be retained according to the following schedule:

(A) At least five years following the discharge or death of a resident; or

(B) for a minor, five years after the resident reaches 18 years of age.

(3) Resident records shall be the property of the facility.

(4) The facility shall keep confidential all information in the resident's records, regardless of the form or storage method of the records, except when release is required by any of the following:

(A) Transfer to another health care institution;

(B) law;

(C) third party payment contract;

(D) the resident or legal representative; or

(E) in the case of a deceased resident, the executor of the resident's estate, or the resident's spouse, adult child, parent, or adult brother or sister.

(5) The facility shall safeguard clinical record information against loss, destruction, fire, theft, and unauthorized use.

(6) The clinical record shall contain the following:

(continued)

- (A) Sufficient information to identify the resident;
- (B) a record of the resident's assessments;
- (C) admission information;
- (D) the plan of care and services provided;
- (E) a discharge summary or report from the attending physician and a transfer form after a resident is hospitalized or transferred from another health care institution;
- (F) physician's orders;
- (G) medical history;
- (H) reports of treatments and services provided by facility staff and consultants;
- (I) records of drugs, biologicals, and treatments administered; and

(J) documentation of all incidents, symptoms, and other indications of illness or injury, including the date, the time of occurrence, the action taken, and the results of action.

(7) The physician shall sign all documentation entered or directed to be entered in the clinical record by the physician.

(8) Documentation by direct care staff shall meet the following criteria:

(A) List drugs, biologicals, and treatments administered to each resident;

(B) be an accurate and functional representation of the actual experience of the resident in the facility;

(C) be written in chronological order and signed and dated by the staff person making the entry;

(D) include the resident's response to changes in condition with follow-up documentation describing the resident's response to the interventions provided;

(E) not include erasures or use of white-out. Each error shall be lined through and the word "error" added. The staff person making the correction shall sign and date the error. An entry shall not be recopied; and

(F) in the case of computerized resident records, include a system to ensure that when an error in documentation occurs, the original entry is maintained and the person making the correction enters the date and that person's electronic signature in the record.

(9) Clinical record staff.

(A) The facility shall assign overall supervisory responsibility for maintaining the residents' clinical records to a specific staff person.

(B) The facility shall maintain clinical records in a manner consistent with current standards of practice.

(C) If the clinical record supervisor is not a qualified medical record practitioner, the facility shall provide consultation through a written agreement with a qualified medical record practitioner.

(n) Disaster and emergency preparedness.

(1) The facility shall have a detailed written emergency management plan to meet potential emergencies and disasters, including, fire, flood, severe weather, tornado, explosion, natural gas leak, lack of electrical or water service, and missing residents.

(2) The plan shall be coordinated with area governmental agencies.

(3) The plan shall include written agreements with agencies that will provide needed services, including providing a fresh water supply, evacuation site, and transportation of residents to an evacuation site.

(4) The facility shall ensure disaster and emergency preparedness by the following means:

(A) Orienting new employees at the time of employment to the facility's emergency management plan;

(B) periodically reviewing the plan with employees; and

(C) annually carrying out a tornado or disaster drill with staff and residents.

(5) The emergency management plan shall be available to staff, residents, and visitors.

(o) Transfer agreement. The facility shall have in effect a written transfer agreement with one or more hospitals that reasonably assures both of the following:

(1) Residents will be transferred from the facility to the hospital, and timely admitted to the hospital, when transfer is medically appropriate, as determined by the attending physician.

(2) medical and other information needed for care and treatment of residents will be exchanged between the institutions.

(p) Quality assessment and assurance.

(1) The facility shall maintain a quality assessment and assurance committee consisting of these individuals:

(A) The director of nursing services;

(B) a physician designated by the facility; and

(C) at least three other members of the facility's staff.

(2) The quality assessment and assurance committee shall perform the following:

(A) Meet at least quarterly to identify issues with respect to what quality assessment and assurance activities are necessary; and

(B) develop and implement appropriate plans of action to correct identified quality deficiencies and prevent potential quality deficiencies. (Authorized by and implementing K.S.A. 39-932; effective Nov. 1, 1993; amended Feb. 21, 1997; amended Oct. 8, 1999.)

28-39-240. Administration. (a) The assisted living or residential health care facility shall be operated in a manner ensuring that residents receive the care and services as specified in each negotiated service agreement.

(b) The licensee shall appoint an administrator or operator who meets the following criteria:

(1) Is at least 21 years of age;

(2) possesses a high school diploma or the equivalent;

(3) holds a Kansas license as an adult care home administrator or has successfully completed an operator training program as designated by the secretary; and

(4) has authority and responsibility for the operation of the facility and compliance with licensing requirements.

(c) A facility may request approval from the department for an administrator or operator to supervise more than one assisted living or residential health care facility. Each request shall be submitted, in writing, by the governing bodies of the facilities on a form approved by the department.

(1) An administrator may supervise more than one assisted living or residential health care facility, if all of the following conditions are met:

(A) Each facility is located within a proximate geographical location.

(B) The combined resident capacity does not exceed 120 residents.

(C) The administrator assures that the lack of full-time, on-site supervision of the facility will not adversely affect the health and welfare of residents.

(2) Each operator may supervise more than one assisted living or residential health care facility, if all of the following conditions are met:

(A) Each facility is located within a proximate geographical location.

(B) The combined resident capacity does not exceed 60 residents.

(C) The operator assures that the lack of full-time, on-site supervision of the facility will not adversely affect the health and welfare of residents.

(3) Before a change in administrator or operator occurs, the facilities shall submit the credentials of the proposed new administrator or operator for approval by the department.

(d) Each licensee shall adopt a written position description for the administrator or operator that includes responsibilities for the following:

(1) Planning, organizing, and directing the facility;

(2) implementing operational policies and procedures for the facility; and

(3) authorizing, in writing, a responsible employee 18 years old or older to act on the administrator's or operator's behalf in the absence of the administrator or operator.

(e) Each administrator or operator shall ensure that written policies and procedures are developed and implemented that incorporate the principles of individuality, autonomy, dignity, choice, privacy, and a home-like environment for each resident. The following provisions shall be included in the policies and procedures:

(1) The recognition of each resident's rights, responsibilities, needs, and preferences;

(2) the freedom of the resident or resident's legal representative to select or refuse a service and to accept responsibility for the consequences;

(3) the development and maintenance of social ties for the resident by providing opportunities for meaningful interaction and involvement within the facility and the community;

(4) furnishing and decorating the resident's personal space;

(5) the recognition of personal space as private and the sharing of an apartment or individual living unit only when agreed to by each resident;

(6) the maintenance of the resident's lifestyle if there are not adverse effects on the rights and safety of other residents; and

(7) the resolution of complaints through a specific process that includes a written response to written complaints within 30 days.

(f) Staff treatment of residents. Each facility shall develop and implement written policies and procedures that prohibit abuse, neglect, and exploitation of residents. Each facility shall meet the following requirements:

(1) Not use verbal, mental, sexual or physical abuse, including corporal punishment and involuntary seclusion;

(2) not employ any individual who has been identified on the state nurse aide registry as having abused, neglected, or exploited residents in an adult care home;

(3) ensure that all allegations of abuse, neglect, or exploitation are investigated and reported immediately to the administrator or operator of the facility and to the department;

(4) provide evidence that all alleged violations are thoroughly investigated and take measures to prevent further potential abuse, neglect, and exploitation while the investigation is in progress;

(5) report the results of all facility investigations to the administrator, operator, or designated representative;

(6) maintain a written record of all investigations of reported abuse, neglect, and exploitation; and

(7) take appropriate corrective action if the alleged violation is verified.

(g) Policies and procedures related to resident services shall be available to staff at all times and to residents, legal representatives of residents, families, and case managers during normal business hours. A notice of availability shall be posted in a readily accessible place for residents.

(h) Power of attorney, guardianship, and conservatorship. A power of attorney, durable power of attorney for health care decisions, guardianship, or conservatorship shall not be accepted by anyone employed by or having a financial interest in the facility, unless the person is related to the resident by marriage or blood within the second degree.

(i) Reports. Each administrator or operator shall submit to the licensing agency, not later than 10 days following the period covered, a semiannual report of residents and employees. The administrator or operator shall submit the report on forms provided by the licensing agency, and shall submit other reports as required by the licensing agency.

(j) Telephone. The facility shall maintain at least one non-coin-operated telephone accessible to residents and employees for use in emergencies. The facility shall post the names and telephone numbers of persons or places commonly required in emergencies, adjacent to this telephone.

(k) The facility shall post the names, addresses, and telephone numbers of the Kansas department of health and environment and the office of the long-term care ombudsman with information that these agencies may be contacted to report actual or potential abuse, neglect, or exploitation of residents or to register complaints concerning the operation of the facility. This information shall be posted in a public area accessible to all residents and the public.

(l) A copy of the most recent survey report and plan of correction shall be readily accessible in a public area to residents and other individuals wishing to examine survey results. (Authorized by and implementing K.S.A. 39-932; effective Feb. 21, 1997; amended Oct. 8, 1999.)

28-39-245. Services. (a) The assisted living or residential health care facility shall provide or coordinate a range of services as specified in the negotiated service agreement.

(continued)

(b)(1) The range of services may include the following:

(A) Daily meal service, based on the resident's needs and specified in the negotiated service agreement;

(B) health care services based on an assessment by a licensed nurse and as specified in the negotiated service agreement;

(C) housekeeping services essential for the health, comfort, and safety of residents as specified in the negotiated service agreement;

(D) medical, dental, and social transportation as specified in the negotiated service agreement; and

(E) planned group and individual activities that meet the needs and interests of the resident as specified in the negotiated service agreement; and

(F) other services necessary to support the health and safety of the resident as specified in the negotiated service agreement.

(2) An assisted living or residential health care facility may provide adult day care services to any individual whose physical, mental, and psychosocial needs can be met by intermittent nursing, psychosocial, and rehabilitative or restorative services if the facility meets all of the following conditions:

(A) The assisted living or residential health care facility develops written policies and procedures for the provision of adult day care services.

(B) The assisted living or residential health care facility develops criteria for the admission and retention of residents receiving adult day care services.

(C) The assisted living or residential health care facility maintains a clinical record of services provided to residents in the adult day care program.

(D) The provision of adult day care services does not adversely affect the care and services offered to other residents of the facility.

(3)(A) An assisted living or residential health care facility may provide respite care to individuals who meet the facility's admission and retention criteria on a short-term basis if the facility meets both of the following conditions:

(i) The facility develops policies and procedures for the provision of respite care.

(ii) All requirements for admission of a resident to an assisted living or residential health care facility are met for an individual admitted for respite care.

(B) The facility may obtain an order from the resident's physician indicating that the resident may return to the resident's home on a temporary basis and return to the facility at a time determined by the resident.

(4) An assisted living or residential health care facility may choose to serve residents who have special needs in a special care section of the facility or the entire facility if the following conditions are met:

(A) The facility develops admission and discharge criteria that identify the diagnosis, behavior, or specific clinical needs of the residents to be served. The medical diagnosis, physician's progress notes, or both shall justify admission to the facility or special care section of the facility.

(B) A written physician's order is required for admission.

(C) Direct care staff are present in the facility or section at all times.

(D) Before admission to facility or the special care section, the facility informs the resident or resident's legal representative, in writing, of the services and programs available that are specific to the needs of the specific group of residents to be served.

(E) The facility provides a training program for each staff member before assignment to the facility or unit related to the specific needs of the residents to be served. Evidence of completion of the training shall be on file in the employee's personnel records.

(F) The facility develops and implements policies and procedures for the operation of the special care facility or section.

(G) The facility provides living, dining, activity, and recreational areas within the special care unit except when residents are able to access living, dining, activity, and recreational areas in another section of the facility.

(H) The functional capacity screen indicates that the resident would benefit from the program offered by the facility or special care section.

(I) The control of exits is the least restrictive possible for the residents in the section.

(c) Routine maintenance and repairs of resident apartments or individual living units and common areas inside and outside the facility shall be provided and specified in the admission agreement.

(d) If the facility chooses not to provide or coordinate any service as specified in K.A.R. 28-39-245 (b), the facility shall notify the resident, in writing, on or before admission to the facility. (Authorized by and implementing K.S.A. 39-932; effective Feb. 21, 1997; amended Oct. 8, 1999.)

28-39-247. Medication management in assisted living and residential health care facilities. (a) Self-administration of medications.

(1) A resident may manage and self-administer that individual's own medications if an assessment by a licensed nurse or physician has determined that the resident can perform this function safely and accurately. The assessment shall include the following information:

(A) An evaluation of the resident's physical, cognitive, and functional ability to manage that individual's own medications; and

(B) an entry in the resident's clinical record.

(2) A resident who self-administers medications may select medications to be administered by a licensed nurse employed by the facility, a home health agency, or a hospice, or by a medication aide employed by the facility. The negotiated service agreement shall reflect this service and shall identify who will be responsible for management of the selected medications.

(3) Medication reminding may be performed by staff if the medications are selected by the resident. Medication reminding shall be limited to the following:

(A) Inquiry as to whether the medication was taken; and

(B) verbal prompting to take medications.

(b) Self-administration of medications with assistance.

(1) A resident may self-administer medications with the use of prefilled medication reminder boxes or prefilled

led syringes, if an assessment has been performed by a licensed nurse and a determination has been made that the resident can safely and accurately administer the preselected medications, using medication reminder boxes or prefilled syringes, without further staff assistance. The licensed nurse may be employed by the facility, a home health agency, a hospice, or the resident.

(A) The assessment shall include an evaluation of the resident's physical, cognitive, and functional ability to safely and accurately administer medications using medication reminder boxes or prefilled syringes.

(B) Assessments shall be performed when the resident is admitted and before the resident begins to self-administer medications with assistance; assessments shall also be performed following a significant change in condition and at least annually. Each assessment shall be maintained in the resident's clinical record.

(C) The licensed nurse or pharmacist who prefills the resident's medication boxes or syringes shall ensure that all drugs are selected and prepared in accordance with a physician's written order.

(D) The licensed nurse or pharmacist shall ensure that both of the following conditions are met:

(i) Medication reminder boxes are labeled with the resident's name and date the box was prefilled.

(ii) A label is placed on the medication box, or a medication administration record is provided to the resident, either of which includes the name and dosage of each drug and the time the drug will be self-administered by the resident.

(2) A resident who self-administers with assistance may request that selected medications be managed by a licensed nurse employed by the facility, a home health agency, or a hospice, or by a medication aide employed by the facility, if the resident believes that individual to be unable to perform this function safely.

(3) A licensed nurse employed by the facility, a home health agency, or the resident shall develop a health services plan that provides directions to unlicensed staff related to the resident's drug regimen when a pharmacist prefills the resident's medication reminder boxes or syringes.

(4) Medication reminding by staff shall be permitted if all of following conditions are met:

(A) The medications are preselected for the resident by a licensed nurse, family member, or pharmacist.

(B) The medication reminding is limited to the following:

(i) Making inquiries as to whether or not medication was taken;

(ii) handing the appropriately labeled prefilled medication reminder box or syringe to the resident; and

(iii) opening the appropriately labeled prefilled medication reminder box, if the resident is unable to open the container.

(C) Medication reminding does not include taking the medication out of the medication reminder box.

(c) Facility management of medications. When a facility is responsible for the management of a resident's medication, the facility shall ensure that all drugs are administered to each resident in accordance with a physician's

written order. The facility shall ensure that all of the following conditions are met:

(1) All drugs, except parenteral drugs, are administered by physicians, licensed nurses, or medication aides.

(2) Parenteral drugs shall be administered only by a physician or licensed nurse.

(3) All drugs are prepared and administered by the same person.

(4) The resident is identified before administration of the drug.

(5) The dose administered is recorded on the resident's individual drug record by the person who administers the drug.

(d) Medications may be preselected or administered by family members or friends gratuitously pursuant to K.S.A. 65-1124(a), and amendments thereto.

(e) Ordering and labeling.

(1) All drugs and biologicals administered by the facility or preselected for residents by a licensed nurse shall be ordered pursuant to a written order issued by a physician.

(2) The dispensing pharmacist shall label each prescription container in accordance with K.A.R. 68-7-14.

(3) Over-the-counter drugs. The facility shall ensure that each over-the-counter drug delivered to the facility is in the original, unbroken manufacturer's package. The pharmacist or licensed nurse shall place the full name of the resident on the package. If over-the-counter drugs are removed from the original manufacturer's package, other than for administration, the pharmacist shall label the drug as required for prescription drugs.

(4) Physicians, advanced registered nurse practitioners, and physician assistants shall give verbal orders for drugs only to a licensed nurse, pharmacist, or another physician. The licensed nurse, physician, or pharmacist shall immediately record the verbal order in each resident's clinical record. The physician shall countersign all verbal orders within seven working days after the receipt of the verbal order.

(5) Residents who self-administer medications may request that the facility staff reorder the medications from the pharmacy of the resident's choice. Staff who perform this function shall be authorized to administer medications.

(f) Storage.

(1) All drugs managed by the facility shall be stored safely, securely, and properly, following manufacturer's recommendations or those of the supplier and in accordance with federal and state laws and regulations.

(2) Residents who self-administer medications or self-administer medications with assistance shall store the medications in a place that is accessible only to the resident and persons authorized to administer medications.

(3) A resident may request that the facility store a medication or medications when the resident is unable to provide proper storage as recommended by the manufacturer or pharmacy provider.

(4) All drugs and biologicals managed by the facility shall be stored in a locked cabinet or locked medication cart, and only those persons authorized to administer

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medications shall have access to the keys to the cabinet or cart.

(5) The facility shall ensure that there are records maintained of the receipt and disposition of all controlled substances managed by the facility so that there can be an accurate reconciliation.

(g) Records. The facility shall ensure that the following items are documented in the clinical records of all residents who self-administer medications with assistance or for whom the facility manages medications:

- (1) Physician orders for medications;
- (2) the pharmacy provider of the resident's choice;
- (3) any known drug allergies;
- (4) the date and time medications were selected for residents who required assistance with self-administration of medications; and

(5) the date and time medications were administered to residents for whom the facility administers the medications.

(h) Drug regimen review.

(1) Each resident who self-administers medications shall be offered the opportunity to have a drug review conducted by pharmacist at least quarterly. If the resident refuses this service, the facility shall offer the service each time the resident experiences a significant change in condition or at least annually. Each facility shall maintain documentation of the resident's decision in the resident's clinical record.

(2) A pharmacist shall conduct a drug regimen review at least quarterly for all residents who self-administer their medications with assistance and for those residents whose medications are managed by the facility.

(3) A drug regimen review shall identify any potential or current drug-related problem, including the following:

- (A) Lack of clinical indication for use of drug;
- (B) subtherapeutic dose of any drug;
- (C) failure of the resident to receive an ordered drug;
- (D) drugs administered in excessive dosage, including duplicate therapy;
- (E) adverse drug reactions;
- (F) drug interactions; and
- (G) lack of adequate monitoring.

(4) The facility shall report each variance identified in the drug regimen review to the resident's physician. If no response has been received from the physician within 30 days, the facility shall note the lack of response from the physician in the resident's records.

(5) The facility shall maintain a record of any drug regimen review performed in the resident's record. (Authorized by and implementing K.S.A. 39-932; effective Feb. 21, 1997; amended Oct. 8, 1999.)

28-39-275. Administration. (a) Each adult day care facility shall ensure that residents receive the necessary care and services, as described in the negotiated service agreement.

(b) Each licensee shall appoint an administrator or operator who shall meet the following criteria:

- (1) Is at least 21 years of age;
- (2) possesses a high school diploma or equivalent;
- (3) holds a Kansas license as an adult care home administrator or has successfully completed an operator training program as designated by the secretary; and

(4) has the authority and responsibility for the operation of the facility and compliance with licensing requirements.

(c) A facility may request approval from the department for an administrator or operator to supervise more than one adult day care facility. Each request shall be submitted, in writing, by the governing bodies of the facilities on a form approved by the department.

(1) An administrator or operator may supervise more than one adult day care facility, if the following conditions are met:

(A) Each facility is located within a proximate geographical location.

(B) The combined resident capacity does not exceed 100 residents.

(C) The administrator or operator assures that the lack of full-time, on site supervision of the facility will not adversely affect the health and welfare of residents.

(2) Before a change in administrator or operator occurs, the facilities shall submit the credentials of the proposed new administrator or operator for approval by the department.

(d) Each licensee shall adopt a written position description for the administrator or operator that includes responsibilities for the following:

- (1) Planning, organizing, and directing the facility;
- (2) implementing operational policies and procedures for the facility; and

(3) authorizing, in writing, a responsible employee 18 years old or older to act on the administrator's or the operator's behalf in the absence of the administrator or operator.

(e) Each administrator or operator shall ensure that written policies and procedures are developed and implemented that incorporate the principles of individuality, autonomy, dignity, choice, and privacy for each resident. The following provisions shall be included in these policies and procedures:

(1) The recognition of each resident's rights, responsibilities, needs, and preferences;

(2) the freedom of each resident's legal representative to select or refuse a service and to accept responsibility for the consequences;

(3) the development and maintenance of social ties of the resident by providing opportunities for meaningful interaction and involvement within the facility and the community;

(4) the maintenance of each resident's lifestyle, if there are no adverse effects on the rights and safety of other residents; and

(5) the resolution of complaints through a specific process that includes a written response to written complaints within 30 days.

(f) Staff treatment of residents. Each facility shall develop and implement written policies and procedures that prohibit abuse, neglect, and exploitation of residents. Each facility shall meet the following requirements:

(1) Not use verbal, mental, sexual, or physical abuse, including corporal punishment and involuntary seclusion;

(2) not employ any individual who has been identified on the state nurse aide registry as having abused, neglected, or exploited residents in an adult care home;

(3) ensure that all allegations of abuse, neglect, or exploitation are investigated and reported immediately to the administrator of the facility and to the department;

(4) provide evidence that all alleged violations are thoroughly investigated and take measures to prevent further potential abuse, neglect, and exploitation while the investigation is in progress;

(5) report the results of all facility investigations of reported abuse, neglect, and exploitation;

(6) maintain a written record of all investigations of reported abuse, neglect, and exploitation; and

(7) take appropriate corrective action if the alleged violation is verified.

(g) Policies and procedures related to resident services shall be available to staff at all times and to all residents, legal representatives of residents, families, and case managers during normal business hours. A notice of availability shall be posted in a readily accessible place for residents.

(h) Power of attorney and guardianship. Anyone employed by or having a financial interest in the facility, unless the person is related by marriage or blood within the second degree to the resident, shall not accept a power of attorney, a durable power of attorney for health care decisions, a guardianship, or a conservatorship.

(i) Reports. Each administrator or operator shall submit to the department, within 10 days following the period covered, a semiannual report of residents and employees. The administrator or operator shall submit the report on forms provided by the department and shall submit other reports as required by the department.

(j) Telephone. Each facility shall maintain at least one non-coin-operated telephone accessible to residents and employees for use in emergencies. Each facility shall post the names and telephone numbers of persons or places commonly required in emergencies adjacent to this telephone.

(k) Smoking. If smoking is allowed in the facility, the following requirements shall be met:

(1) A public use area or areas shall be provided for residents, visitors, and employees who wish to smoke. The area or areas shall be provided with ashtrays and wastebaskets that are fire resistant.

(2) Each facility shall provide direct supervision of each resident, when smoking, if the resident has been identified as having a mental, psychosocial, or physical impairment that could make unsupervised smoking dangerous to that individual or to others.

(3) Each facility shall ensure that residents who desire to live in a smoke-free environment may do so.

(l) Each facility shall post the names, addresses, and telephone numbers of the Kansas department of health and environment and the office of the long-term care ombudsman with information that these agencies may be contacted to report actual or potential abuse, neglect, and exploitation of residents, or to register complaints concerning the operation of the facility. This information shall be posted in a public area accessible to all residents and the public.

(m) A copy of the most recent survey report and plan of correction shall be readily accessible in a public area to residents and other individuals wishing to examine

survey results. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-276. Community governance. (a) Each adult day care facility shall facilitate the organization of a council that meets regularly to provide residents with a forum to provide input into community governance.

(b) Each facility shall accommodate the council process by providing space for the meetings, posting notices of the meetings, and assisting residents who wish to attend the meetings.

(c) In order to permit a free exchange of ideas and concerns, meetings shall be conducted without the presence of facility staff, except when allowed by residents.

(d) Each administrator or operator shall respond in writing to each written idea or concern from the council and shall provide the council with a copy of the response within 30 days after the meeting. Copies of the written ideas or concerns and the written responses shall be available to surveyors. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-277. Admission, transfer, and discharge. (a) Each day care facility shall develop and implement written admission, transfer, and discharge policies that protect the rights of residents, pursuant to K.A.R. 28-39-148. In addition, a facility shall not admit or retain any resident who has one or more of the following conditions, unless the negotiated service agreement includes resources, including appropriate direct care staff, to meet the needs of the resident while in the facility:

(1) Incontinence, if the resident cannot or will not participate in management of the problem;

(2) immobility, if the resident requires total assistance in exiting the building;

(3) any ongoing condition requiring a two-person transfer; or

(4) any behavioral symptom that exceeds manageability.

(b) A facility shall not admit or retain any resident whose clinical condition requires the use of physical restraints. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-278. Resident functional capacity screen. (a) On or before admission to an adult day care facility, a licensed nurse, licensed social worker, or the administrator or operator shall conduct a functional capacity screen and record all findings on an instrument specified by the secretary. Each facility may choose to integrate the specified screen in an instrument developed by the facility. Each element and definition, as specified by the department, shall be included in the facility functional capacity screen.

(b) A licensed nurse, licensed social worker, or the administrator or operator shall conduct a functional capacity screen each time the resident experiences a significant change in physical, mental, or psychosocial functioning that would require a change in the negotiated service agreement.

(c) A licensed nurse, licensed social worker, or the administrator or operator shall conduct a functional capacity screen for each resident at least once every 365 days.

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(d) A licensed nurse, licensed social worker, or the administrator or operator shall use the functional capacity screen to identify the services to be included in the negotiated service agreement.

(e) The facility shall ensure that the functional capacity screen accurately reflects the functional status of the resident. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-279. Negotiated service agreement. (a) Each adult day care facility shall develop, in collaboration with the resident, the resident's legal representative, family if agreed to by the resident, or case manager, a written negotiated service agreement based on service needs identified by the functional capacity screen or preferences of the resident. The negotiated service agreement shall include the following information:

- (1) A description of the services to be provided;
- (2) identification of the provider of the service or services; and
- (3) identification of the party or parties responsible for payment when services are provided by an outside resource.

(b) The negotiated service agreement shall support the dignity, privacy, choice, individuality, and autonomy of the resident.

(c) A licensed nurse employed by the facility, a home health agency, a hospice, or the resident shall participate in the development of the negotiated service agreement when the resident's functional capacity screen indicates the need for health care services.

(d) At admission, the facility shall develop an initial negotiated service agreement.

(e) The facility shall conduct a review and revision of the negotiated service agreement at least annually, and more frequently if requested by the resident, the resident's legal representative, the family if agreed to by the resident, case manager, or the facility. A licensed nurse shall be involved in revisions related to health care services.

(f) When the resident or the resident's legal representative refuses a service that the administrator or operator, the licensed nurse, the resident's physician, or case manager believes is necessary for the resident's health and safety, the negotiated service agreement shall include the following information:

- (1) The service or services refused;
- (2) identification of potential negative resident outcomes, if the service or services are not provided; and
- (3) an indication of the acceptance of the potential risk by the resident or the resident's legal representative.

(g) The negotiated service agreement shall not include situations in which the lack of a service has the potential to affect the health and safety of other residents, facility staff, or the public.

(h) Each individual involved in the development of the negotiated service agreement shall sign the agreement. A copy of the initial agreement and subsequent revisions shall be provided to the resident or the resident's legal representative.

(i) Each facility shall ensure that each resident receives services according to the provisions of the negotiated service agreement.

(j) When the resident's negotiated service agreement includes the use of outside resources, the facility shall perform the following:

(1) Provide the resident, the resident's legal representative, the family if agreed to by the resident, and the case manager with a list of service providers available to provide the needed service;

(2) assist the resident, when requested, in contacting outside resources for services; and

(3) monitor the services provided by the outside resource and act as an advocate for the resident when services do not meet professional standards of practice. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-280. Services. (a) Each adult day care facility shall provide or coordinate the range of services identified and specified in the negotiated service agreement.

(b) The range of services may include the following:

- (1) Daily meal service based on the resident's needs;
- (2) health care services based on an assessment by a licensed nurse;

(3) medical, dental, and social transportation;

(4) planned group and individual activities meeting the needs and interests of the resident; and

(5) other services necessary to support the health and safety of the resident.

(c) If the facility chooses not to provide or coordinate a service pursuant to K.A.R. 28-39-280 (b), the facility shall provide this information to the resident on or before admission to the facility. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-281. Health care services. (a) Each adult day care facility shall provide or coordinate the provision of health care services to each resident as specified in the negotiated service agreement.

(b) If the functional capacity screen indicates that a resident is in need of health care services, a licensed nurse in collaboration with the resident, the resident's legal representative, the family if agreed to by the resident, or a case manager shall develop a health care service plan to be included in the negotiated service agreement.

(c) Health care services provided by or coordinated by the facility may include one or both of the following:

- (1) Personal care provided by the facility's direct care staff, a home health agency, or hospice, or gratuitously by friends or family members; or
- (2) supervised nursing care provided by a licensed nurse employed by the facility, a home health agency, a hospice, or the resident.

(d) The negotiated service agreement shall contain a description of the health care services to be provided and the name of the licensed nurse responsible for the implementation and supervision of the plan.

(e) Nursing procedures not included in the nurse aide or medication aide curriculums may be delegated by a licensed nurse to unlicensed direct care staff under the Kansas nurse practice act, K.S.A. 65-1124 (m), and amendments thereto.

(f) Each facility shall be responsible for assuring that a licensed nurse is available on-site or by telephone to provide immediate direction to medication aides and nurse

aides for residents who have unscheduled needs. The licensed nurse may be employed by the facility or by a home health agency or a hospice.

(g) A licensed nurse may provide wellness and health monitoring specified in the resident's negotiated service agreement. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-282. Medication management in adult day care facilities. (a) Self-administration of medications.

(1) Each resident may manage and self-administer that individual's own medications if an assessment by a physician or licensed nurse has determined that the resident can perform this function safely and accurately.

(2) The assessment shall include an evaluation of the resident's physical, cognitive, and functional ability to manage that individual's own medications.

(3) Documentation of the assessment shall appear in the resident's clinical record.

(4) Each resident who self-administers medications may select medications to be administered by a licensed nurse employed by the facility, a home health agency, or hospice, or by a medication aide employed by the facility. The negotiated service agreement shall reflect this service and identify the licensed nurse responsible for management of the selected medications.

(5) Medication reminding may be performed by staff if the medications are selected by the resident. Medication reminding shall be limited to the following:

(A) An inquiry as to whether the medication was taken; and

(B) verbal prompting to take medications.

(b) Self-administration of medications with assistance.

(1) Each resident may self-administer medications with the use of prefilled medication reminder boxes or prefilled syringes, if an assessment performed by a licensed nurse has determined that the resident can safely and accurately administer the preselected medications using medication reminder boxes or prefilled syringes without further staff assistance. The licensed nurse may be employed by the facility, a home health agency, a hospice, or the resident.

(A) The assessment shall include an evaluation of the resident's physical, cognitive, and functional ability to safely and accurately administer their medications using medication reminder boxes or prefilled syringes.

(B) An assessment shall be performed either when the resident is admitted or before the resident begins to self-administer medications with assistance. An assessment shall also be performed following a significant change in condition and at least annually. Each assessment shall be maintained in the resident's clinical record.

(C) The licensed nurse or pharmacist who prefills the resident's medication boxes or syringes shall ensure that all drugs are selected and prepared in accordance with a physician's written order.

(D) The licensed nurse or pharmacist shall ensure that both of the following conditions are met:

(i) Medication reminder boxes are labeled with the resident's name and the date on which the box was prefilled.

(ii) A label is placed on the medication box, or a medication administration record is provided to the resident,

either of which includes the name and dosage of each drug and the time the drug is to be self-administered by the resident.

(2) Each resident who self-administers with assistance may request that selected medications be managed by a licensed nurse employed by the facility, a home health agency, or a hospice, or by a medication aide employed by the facility if the resident believes the resident is unable to perform this function safely.

(3) A licensed nurse employed by the facility, a home health agency, or the resident shall develop a health services plan that provides directions to unlicensed staff related to the resident's drug regimen.

(4) Medication reminding by staff shall be allowed, subject to the following conditions:

(A) The medications are preselected for the resident by a licensed nurse, family member, or pharmacist.

(B) The medication reminding is limited to the following:

(i) Making inquiries as to whether or not medication was taken;

(ii) handing the appropriately labeled prefilled medication reminder box or syringe to the resident; and

(iii) opening the appropriately labeled prefilled medication reminder box if the resident is unable to open the container.

(C) Medication reminding does not include taking the medication out of the medication reminder box.

(c) Facility management of medications. If the facility is responsible for the management of a resident's medications, the facility shall ensure that all drugs are administered to each resident in accordance with a physician's written order. Each facility shall ensure that all of the following conditions are met:

(1) All drugs except parenteral drugs are administered by physicians, licensed nurses, or medication aides.

(2) Parenteral drugs are administered only by a physician or licensed nurse.

(3) The drugs are prepared and administered by the same person.

(4) The resident is identified before administration of the drug.

(5) The dose administered is recorded on the resident's individual drug record, by the person who administered the drug.

(d) Medications may be preselected or administered by family members or friends gratuitously pursuant to K.S.A. 65-1124 (a), and amendments thereto.

(e) Ordering and labeling.

(1) All drugs and biologicals administered by the facility or preselected for residents by a licensed nurse shall be administered pursuant to a written order issued by a physician.

(2) The dispensing pharmacist shall label each prescription container pursuant to K.A.R. 68-7-14.

(3) Over-the-counter drugs. Each facility shall ensure that each over-the-counter drug delivered to the facility is in the original, unbroken manufacturer's package. A pharmacist or licensed nurse shall place the full name of the resident on the package. If over-the-counter drugs are removed from the original manufacturer's package, other

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than for administration, the pharmacist shall label the drug, as required for prescription drugs.

(4) Physicians, advanced registered nurse practitioners, and physician assistants shall give verbal orders for drugs only to a licensed nurse, pharmacist, or another physician. The licensed nurse, physician, or pharmacist shall immediately record the verbal order in the resident's clinical record. The physician shall countersign all verbal orders within seven working days after the receipt of the verbal order.

(f) Storage.

(1) All drugs, whether self-administered by a resident, self-administered with assistance by a resident, or managed by the facility, shall be stored safely, securely, and properly, following manufacturer's recommendations or those of the supplier and in accordance with federal and state laws and regulations.

(2) Each resident who self-administers medications shall store the medications in a manner that prevents access by other residents and the public.

(3) Each resident may request that the facility store a medication or medications if the resident is unable to provide proper storage as recommended by the manufacturer or pharmacy provider.

(4) All medications managed by the facility or stored by the facility at the request of a resident shall be stored in a locked cabinet or medication cart, and only those persons authorized by the facility shall have access to the keys to the cabinet or cart.

(5) Each facility shall ensure that there are records maintained of receipt and disposition of all controlled substances managed by the facility so that there can be an accurate reconciliation.

(g) Records. Each facility shall ensure that the following items are documented in the clinical records of all residents who self-administer medications with assistance or the facility manages medications for the resident:

- (1) Physician orders for medications;
- (2) the pharmacy provider of the resident's choice;
- (3) any known drug allergies;
- (4) the date and time medications were selected for residents who required assistance with self-administration of medications; and
- (5) the date and time medications were administered to residents.

(h) Drug regimen review.

(1) Each resident in the facility shall be offered the opportunity for a drug review conducted by a pharmacist or a licensed nurse on a monthly basis. If the resident refuses this service, the facility shall offer the service each time the resident experiences a significant change in condition or at least annually. Each facility shall document the resident's decision in the resident's clinical record.

(2) A drug regimen review shall identify any potential or current drug-related problem, including any of the following:

- (A) Lack of clinical indication for use of any drug;
- (B) subtherapeutic dose of any drug;
- (C) failure of the resident to receive an ordered drug;
- (D) drugs administered in excessive dosage, including duplicate therapy;
- (E) adverse drug reactions;

(F) drug interactions; and

(G) lack of adequate monitoring.

(3) The facility shall report each variance identified in the drug regimen review to the resident's physician.

(4) The facility shall maintain documentation in each resident's record of any drug regimen review performed.

(i) At least annually, a pharmacist or a licensed nurse shall conduct an educational program on medication usage and health-related topics for residents, legal representatives of residents, and families of residents. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-283. Staff development. (a) Each adult day care facility shall provide orientation to new employees and regular in-service education for all employees to ensure that the services provided assist residents to attain and maintain their individuality, autonomy, dignity, independence, and ability to make choices.

(b) Subjects in in-service education shall include the following:

- (1) Principles of adult day care;
- (2) fire prevention and safety;
- (3) disaster procedures;
- (4) accident prevention;
- (5) resident rights;
- (6) infection control; and
- (7) prevention of abuse, neglect, and exploitation of residents.

(c) Each facility that admits residents with dementia shall provide in-service education on the treatment of behavioral symptoms. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-284. Staff qualifications. (a) Each adult day care facility shall provide sufficient numbers of qualified personnel to ensure that residents receive the services and care specified in the negotiated service agreement.

(b) Employee records shall contain evidence of licensure, registration, or certification of full-time, part-time, and consultant staff.

(c) The facility shall perform health screening on each employee no later than seven days after employment. The facility shall maintain a copy of this health screening in the employee's file.

(d) The facility shall perform tuberculosis skin testing of employees in accordance with the centers for disease control recommendations in "prevention and control of tuberculosis in facilities providing long-term care to the elderly," as published in morbidity and mortality weekly report, July 13, 1990. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-285. Resident records. (a) Each adult day care facility shall maintain a resident record for each resident, in accordance with accepted professional standards and practices.

(1) Each facility shall maintain each resident's records for at least five years after the discharge or death of the resident.

(2) In the case of a minor, the facility shall maintain the resident's records for five years after the resident reaches 18 years of age.

(b) Each facility shall keep confidential all information in the resident's records, regardless of form or storage method of records, except when release is required by any of the following:

- (1) Transfer to another health care facility;
- (2) law;
- (3) third party payment contract;
- (4) the resident or the resident's legal representative;

or

(5) in the case of a deceased resident, the immediate heirs of the resident.

(c) Each facility shall safeguard resident record information against loss, destruction, fire, theft, or unauthorized use.

(d) The resident's record shall contain at least the following information:

- (1) The resident's name;
- (2) the dates of admission and discharge;
- (3) the admission agreement and any amendments;
- (4) the functional capacity screens;
- (5) the negotiated service agreement and any amendments;
- (6) the name, address, and telephone number of the physician and dentist to be notified in an emergency;
- (7) the name, address, and telephone number of the legal representative or individual of resident's choice to be notified in the event of a significant change in condition;
- (8) the physician's orders, if the facility is managing the resident's medications and treatments or if the resident is self-administering medications with assistance;
- (9) the records of drugs, biologicals, and treatments administered; and
- (10) the documentation of all incidents, symptoms, and other indications of illness or injury, including date, time of occurrence, the action taken, and the results of action. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-286. Disaster and emergency preparedness.

(a) Each adult day care facility shall provide sufficient staff to promptly take residents who require assistance to the outside or to a point of safety in an emergency.

(b) Each facility shall have a detailed written emergency management plan to meet potential emergencies and disasters, including the following:

- (1) Fire;
- (2) flood;
- (3) severe weather;
- (4) tornado;
- (5) explosion;
- (6) natural gas leak;
- (7) lack of electrical or water service;
- (8) missing residents; and
- (9) any other potential emergency situation.

(c) Each facility shall have written agreements that provide the following needed services:

- (1) Fresh water;
- (2) evacuation site; and
- (3) transportation of residents to an evacuation site.

(d) To ensure disaster and emergency preparedness, each facility shall perform the following:

(1) Orient new employees at the time of employment to the facility's emergency management plan;

(2) periodically review the plan with employees; and

(3) at least every three months, carry out a disaster drill with staff and residents that includes evacuation of the building or evacuation to a safe area.

(e) The emergency management plan shall be available to staff, residents, and visitors. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-287. Dietary services. (a) Each adult day care facility shall provide or coordinate the provision of dietary services to residents as specified in the resident's negotiated service agreement. Each facility that has a contract with an outside food management company shall be responsible for the contracting company's compliance with these regulations.

(a) Staffing.

(1) The overall supervisory responsibility for dietetic services shall be the assigned responsibility of one employee.

(2) If the resident's negotiated service agreement includes the provision of a therapeutic diet, the diet served shall be based on instructions from a physician or licensed dietitian.

(3) Menus shall be planned in advance and shall be based on "nutrition and your health: dietary guidelines for Americans," 4th edition, 1995, home and garden bulletin #232, published by the U.S. department of agriculture and the department of health and human services, which is hereby adopted by reference.

(b) Foods shall be prepared by safe methods that conserve the nutritive value, flavor, and appearance and shall be attractively served at the proper temperature.

(c) Menu plans shall be available to residents on at least a weekly basis.

(d) A method shall be established to allow input by residents on the selection of food to be served and the scheduling of meal service. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-288. Infection control. (a) Each adult day care facility shall provide a safe, sanitary, and comfortable environment for residents.

(b) Each facility shall develop and implement policies and procedures to prevent and control the spread of infections. These policies and procedures shall include the following:

(1) Taking universal precautions to prevent the spread of blood-borne pathogens;

(2) hand washing;

(3) providing food service sanitation;

(4) prohibiting employees with a communicable disease or infected skin lesions from coming in contact with any resident or resident's food, if direct contact transmits the disease;

(5) providing orientation of new employees and periodic employee in-service education on the control of infections in a health care setting; and

(6) tuberculosis skin testing of each new resident and employee, as soon as attendance or employment begins, unless the employee can provide documentation of a pre-

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vious significant reaction. Each facility shall follow the centers for disease control recommendations for "prevention and control of tuberculosis in facilities providing long-term care to the elderly," as published in morbidity and mortality weekly report, July 13, 1990, and hereby adopted by reference. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-289. Construction; general requirements.

Each adult day care facility shall be designed, constructed, equipped, and maintained to protect the health and safety of residents, personnel, and the public.

(b) All new construction, renovation, and remodeling or changes in building use in existing buildings shall comply with building and fire codes, ordinances, and regulations enforced by city, county, and state jurisdictions, including the state fire marshal.

(c) New construction, modifications, and equipment shall conform to the following codes and standards;

(1) Title III of the Americans with disabilities act, 42 U.S.C. 12181, as implemented by 28 C.F.R. part 36, as published on July 26, 1991 and hereby adopted by reference; and

(2) "food service sanitation manual," health, education, and welfare (HEW) 1976 publication no. FDA 78-2081, which is hereby adopted by reference.

(d) Site location requirements. Each facility shall meet the following requirements:

- (1) Be served by all-weather roads and streets;
- (2) be free from noxious or hazardous smoke or fumes;
- (3) be located a minimum of 4,000 feet from concentrated livestock operations, including feedlots and shipping and holding pens;
- (4) be free flooding for a 100-year period; and
- (5) be sufficient in area and configuration to accommodate the building or buildings, drives, parking, sidewalks, and outdoor recreation area or areas.

(e) General building exterior.

(1) Each exterior pathway or access to the facility's common use areas and entrance and exit ways shall meet the following requirements:

- (A) Be made of hard, smooth material;
- (B) be free of barriers; and
- (C) be maintained in good repair.

(2) There shall be a means of monitoring each exterior entry and exit used by residents for security purposes.

(3) Each facility shall provide outdoor recreation areas for residents.

(f) Common use areas.

(1) Each facility shall have sufficient common-use space to accommodate the full range of program activities and services.

(A) Space shall be provided for activities at a rate of 60 square feet per resident capacity of the facility. Reception areas, storage areas, offices, rest rooms, passageways, treatment rooms, service areas, or specialized space used only for therapies shall not be included when calculating activity space square footage.

(B) A private area equipped with a bed shall be available for residents who become ill, may require a rest period, or need a quiet area for treatment of behavioral symptoms.

(C) Each facility shall have social, recreational, and dining areas that provide for the activity needs of residents. The dining area shall have seating capacity for all residents in attendance at any one time.

(D) Rooms or areas used for resident services and activities shall have furniture appropriate to the needs of the residents attending the adult day care program.

(2) Each facility located in a building housing other services shall have a separate, identifiable space for adult day care activity areas provided during hours of operation. Space, including the kitchen and therapy rooms, may be shared.

(3) Rest room or rooms.

(A) Each rest room shall be accessible to residents with disabilities and shall contain a toilet or toilets, lavatory, waste container, and a nonreusable method of hand drying.

(B) The number of toilets and lavatories accessible to residents shall include the following:

- (i) One to five residents: one toilet and lavatory;
- (ii) six to 10 residents: two toilets and two lavatories; and
- (iii) 11 or more residents: one toilet and lavatory for each 10 residents over 10.

(4) Bathing room.

(A) There may be a bathing room with a tub, shower, or mechanical tub.

(B) A toilet and lavatory shall be accessible without entering the general corridor.

(5) Public telephone. There shall be a public telephone locally accessible to individuals with disabilities in a private area that allows a resident or another individual to conduct a private conversation. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-290. Support services areas. (a) Each adult day care facility shall provide the following:

(1) A work space with a desk and telephone that can be used by staff to chart and maintain resident records; and

(2) a locked medication storage area and a refrigerator for the storage of medications in the same area. If controlled drugs are stored at the facility, a separate double-locked compartment shall be provided. A drug cart with a double-locking system shall be acceptable. Each facility shall provide storage for necessary medical supplies.

(b) Each facility shall provide a locked closet or cabinet for the storage of cleaning chemical and supplies used for facility housekeeping and sanitation.

(c) Laundry facility.

(1) If the facility processes laundry, the facility shall provide washing and drying machines. Each facility shall arrange the work area to provide a one-way flow of laundry from a soiled area to a clean area.

(2) Each facility shall store soiled laundry in a manner that prevents odors and the spread of disease.

(3) Each facility shall provide a lavatory with a non-reusable method of hand drying within or accessible to the laundry area.

(d) Dietary areas. A dietary area shall provide for sanitary meal preparation or service to residents.

(1) Each facility shall wash, rinse, and sanitize all tableware, kitchenware, and food preparation equipment in any of the following:

- (A) A dishwashing machine;
 - (B) a three-compartment sink;
 - (C) three separate containers; or
 - (D) any combination of the above.
- (2) Each facility shall provide the disposal of waste by incineration, mechanical destruction, removal, or a combination of these. Air-tight, closed containers shall be used to store waste.
- (3) Ceilings in the dietary area shall be cleanable by dustless methods, including vacuum cleaning or wet cleaning.
- (4) Dietary areas shall not have exposed or unprotected sewer lines. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-291. Details and finishes. (a) Details for each adult day care facility shall include the following:

(1) Rooms containing bathtubs, showers, or toilets available for use by residents shall be equipped with doors and hardware capable of being opened from the outside and shall permit access from outside the room in an emergency.

(2) Windows and outer doors, when left in an open position, shall be provided with insect screens. Windows shall be designed to prevent accidental falls when open or shall be equipped with security screens.

(3) Grab bars shall be provided at all toilets, showers, and tubs accessible to residents.

(b) Finishes.

(1) Wall finishes shall be washable and, in the immediate area of plumbing fixtures, shall be smooth and moisture resistant. Finish trim, and wall and floor constructions in dietary and food preparation areas shall be free from spaces that can harbor rodents and insects.

(2) Floor, wall, and ceiling penetrations by pipes, ducts, and conduits shall be tightly sealed to minimize the entry of rodents and insects. Joints of structural elements shall be similarly sealed.

(3) Shower bases and tubs shall be provided with non-slip surfaces.

(c) Mechanical requirements.

(1) Heating, air conditioning, and ventilating systems.

(A) The system shall be designed to maintain a year-round indoor temperature range of 70° F to 85° F.

(2) Plumbing and piping systems.

(A) Backflow prevention devices or vacuum breakers shall be installed on fixtures to which hoses or tubing can be attached.

(B) Water distribution systems shall be arranged to provide hot water at hot water outlets at all times. The temperature of hot water shall range between 98° F and 120° F at showers, tubs, and lavatories accessible to residents.

(3) Electrical requirements.

(A) All spaces occupied by persons or machinery and equipment within buildings, approaches to buildings, and parking lots shall have adequate lighting.

(B) Each corridor and stairway shall remain lighted during the hours of operation.

(C) Each light in resident use areas shall be equipped with shades, globes, grids, or glass panels. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-300 to 28-39-312. (Authorized by and implementing K.S.A. 39-932; effective, T-88-57, Dec. 16, 1987; amended May 1, 1988; revoked Oct. 8, 1999.)

28-39-425. Administration. (a) The home-plus facility shall be operated in a manner that ensures that residents receive the care and services described in the negotiated service agreement.

(b) The licensee shall appoint an administrator or operator who meets the following criteria:

- (1) Is at least 21 years of age;
- (2) possesses a high school diploma or the equivalent;
- (3) holds a Kansas license as an adult care home administrator or has successfully completed an operator training program designated by the secretary; and
- (4) has authority and responsibility for the operation of the facility and compliance with licensing requirements.

Each facility may request approval from the department for an administrator or operator to supervise more than one home-plus facility. Each request shall be submitted, in writing, by the governing bodies of the facilities on a form approved by the department.

(1) Each administrator or operator may supervise more than one home-plus facility, if the following conditions are met:

(A) Each facility is located within a proximate geographical location.

(B) The combined resident capacity does not exceed 20 residents.

(c) The administrator or operator assures that the lack of full-time, on-site supervision of the facility does not adversely affect the health and welfare of residents.

(2) Before a change in administrator or operator occurs, the facilities shall submit the credentials of the proposed new administrator or operator for approval by the department.

(d) The licensee shall ensure that the operation of the facility reflects the following concepts:

(1) The recognition of each resident's rights, responsibilities, needs, and preferences;

(2) the freedom of each resident or resident's legal representative to select or refuse a service and to accept responsibility for the consequences;

(3) the development and maintenance of social ties for the resident by providing opportunities for meaningful interaction and involvement within the facility and the community;

(4) furnishing and decorating each resident's personal space;

(5) the recognition of personal space as private and the sharing of a bedroom only when agreed to by each resident;

(6) the maintenance of each resident's lifestyle, if there are no adverse effects on the rights and safety of other residents; and

(7) the resolution of complaints through a specific process that includes a written response to written complaints within 30 days.

(e) Staff treatment of residents. Each facility shall develop and implement written policies and procedures

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that prohibit abuse, neglect, and exploitation of residents. Each facility shall meet the following requirements:

(1) Not use verbal, mental, sexual, or physical abuse, including corporal punishment and involuntary seclusion;

(2) not employ any individual who has been identified on the state nurse aid registry as having abused, neglected, or exploited residents in an adult care home;

(3) ensure that all allegations of abuse, neglect, or exploitation are investigated and reported immediately to the administrator or operator of the facility and to the department;

(4) provide evidence that all alleged violations are thoroughly investigated and take measures to prevent further potential abuse, neglect, and exploitation while the investigation is in progress;

(5) report the results of all facility investigations of reported abuse, neglect, and exploitation;

(6) maintain a written record of all investigation of reported abuse, neglect, and exploitation; and

(7) take appropriate corrective action if the alleged violation is verified.

(f) Power of attorney, guardianship, and conservatorship. A power of attorney, durable power of attorney for health care decisions, guardianship, or conservatorship shall not be accepted by any person employed by or having a financial interest in the facility, unless the person is related to the resident by marriage or blood within the second degree.

(g) Reports. Each administrator or operator shall submit to the department, within 10 days following the period covered, a semiannual report of residents and employees. The administrator or operator shall submit the report on forms provided by the department and shall submit other reports as required by the department.

(h) Telephone. The facility shall maintain at least one non-coin-operated telephone accessible to residents and employees for use in emergencies. The facility shall post the names and telephone numbers of persons or places commonly required in emergencies adjacent to this telephone.

(i) Smoking. If smoking is allowed in the facility, the following requirements shall be met:

(1) A public use area or areas shall be provided for residents, visitors, and employees who wish to smoke. The area or areas shall be provided with ashtrays and wastebaskets that are fire resistant.

(2) Each facility shall provide direct supervision of each resident, when smoking, who has been identified as having a mental, psychosocial, or physical impairment that could make unsupervised smoking dangerous to that individual or to others.

(3) Each facility shall ensure that residents who desire to live in a smoke-free environment may do so.

(j) Each facility shall post the names, addresses, and telephone numbers of the Kansas department of health and environment and the office of the long-term care ombudsman with information that these agencies may be contacted to report actual or potential abuse, neglect, or exploitation of residents, or to register complaints concerning the operation of the facility. This information

shall be posted in a public area accessible to all residents and the public.

(k) A copy of the most recent survey report and plan of correction shall be readily accessible in a public area to residents and other individuals wishing to examine survey results. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-426. Admission, transfer, and discharge. (a) Each home-plus facility shall develop and implement written admission, transfer, and discharge policies that protect the rights of residents, pursuant to K.A.R. 28-39-148.

(b) When the operator of the facility is not a licensed nurse, the facility shall not admit or retain residents who have one or more of the following conditions:

(1) Incontinence, if the resident cannot or will not participate in management of the problem;

(2) immobility, if the resident requires total assistance in exiting the building;

(3) any ongoing condition requiring a two-person transfer;

(4) any ongoing, skilled nursing intervention needed 24 hours a day for an extended period of time; or

(5) any behavioral symptom that exceeds manageability.

(c) Each facility may admit residents for adult day care services, if there are at least 60 square feet of living, dining, and activity space available in the facility for each resident receiving home-plus services and each resident receiving adult day care services.

(d) Each resident shall be liable only for rental fees accrued to the end of a 30-day written notice provided by the resident or resident's legal representative or by the facility pursuant to K.A.R. 28-39-148(d). (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-427. Resident functional capacity screen. (a) On or before admission to a home-plus facility, a licensed nurse, licensed social worker, or the administrator or operator shall conduct a functional capacity screen on each resident, as specified by the department. A facility may choose to integrate the specified screen and record all findings on an instrument developed by the facility. Each element and definition specified by the department shall be included in the facility functional capacity screen.

(b) The facility shall conduct a functional capacity screen following a significant change in any resident's physical, mental or psychosocial functions that would require a change in the negotiated service agreement.

(c) The facility shall conduct a functional capacity screen at least once every 365 days.

(d) The facility shall use a functional capacity screen as a basis for determining the services to be included in the negotiated service agreement.

(e) The functional capacity screen shall accurately reflect the resident's status. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-428. Negotiated service agreement. (a) Each home-plus facility shall develop, in collaboration with the resident, the resident's legal representative, family if agreed to by the resident, or case manager, a written ne-

gotiated service agreement based on the service needs identified by the functional capacity screen or preferences of the resident. The negotiated service agreement shall include the following information:

- (1) A description of the services to be provided;
- (2) identification of the provider of the service or services; and

- (3) identification of the party or parties responsible for payment when services are provided by an outside resource.

(b) The negotiated service agreement shall support the dignity, privacy, choice, individuality, and autonomy of the resident.

(c) A licensed nurse employed by the facility, a home health agency, or the resident shall participate in the development of the negotiated service agreement when the resident's functional capacity screen indicates the need for health care services.

(d) Each facility shall develop an initial negotiated service agreement at admission.

(e) Each facility shall review the negotiated service agreement at least annually. Each facility shall revise more frequently if requested by the resident, the resident's legal representative, the family if agreed to by the resident, the case manager, or the facility. A licensed nurse shall be involved in revisions related to health care services.

(f) When the resident or the resident's legal representative refuses a service that the administrator or operator, the licensed nurse, the resident's physician, or the case manager believes is necessary for the resident's health and safety, the negotiated service agreement shall include the following information:

- (1) The service or services refused;
- (2) identification of potential negative resident outcomes, if the service or services are not provided; and
- (3) an indication of the acceptance of the potential risk by the resident or the resident's legal representative.

(g) The negotiated service agreement shall not include situations in which the lack of a service has the potential to affect the health and safety of other residents, facility staff, or the public.

(h) Each individual involved in the development of the negotiated service agreement shall sign the agreement. The facility shall provide a copy of the initial agreement and subsequent revisions to the resident or the resident's legal representative.

(i) The facility shall ensure that each resident receives services according to the provisions of the negotiated service agreement.

(j) When the resident's negotiated service agreement includes the use of outside resources, the facility shall perform the following:

- (1) Provide the resident, the resident's legal representative, the family if agreed to by the resident, and the case manager with a list of service providers available to provide the needed service;

- (2) assist the resident, when requested, in contacting outside resources for services; and

- (3) monitor the services provided by the outside resource and act as an advocate for the resident when services do not meet professional standards of practice. (Au-

thorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-429. Services. (a) Each home-plus facility shall provide or coordinate the range of services identified and specified in the negotiated service agreement.

(b) The range of services may include the following:

- (1) Daily meal service, based on the resident's needs;
- (2) health care services based on an assessment by a licensed nurse;

- (3) housekeeping services essential for the health, comfort, and safety of residents;

- (4) medical, dental, and social transportation;

- (5) group and individual activities based on the needs and interests of the resident; and

- (6) other services necessary to support the health and safety of the resident.

(c) Adult day care. Each home-plus facility may provide adult day care services to any individual whose physical, mental, and psychosocial needs can be met by intermittent nursing, psychosocial, rehabilitative, or restorative services. Each home-plus facility shall meet the following requirements:

- (1) Maintain a record of services provided to clients in the adult day care program; and

- (2) provide adult day care services that do not adversely affect the care and services offered to other residents of the facility.

(d) Routine maintenance, including control of pests and rodents, and repairs of each resident's bedroom and common areas inside and outside the facility shall be provided as specified in the admission agreement.

(e) If the facility chooses not to provide or coordinate any service, pursuant to K.A.R. 28-39-429(b), the facility shall provide this information to the resident on or before admission to the facility. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-430. Health care services. (a) Each home-plus facility shall provide or coordinate the provision of health care services to each resident as specified in the negotiated service agreement.

(b) If the functional capacity screen indicates that a resident is in need of health care services, a licensed nurse, in collaboration with the resident, the resident's legal representative, the family if agreed to by the resident, or a case manager, shall develop a health care service plan to be included in the negotiated service agreement.

(c) Health care services provided by or coordinated by the facility may include at least one of the following:

- (1) Personal care provided by the facility's direct care staff, a home health agency, or gratuitously by friends or family members; or

- (2) supervised nursing care provided by a licensed nurse employed by the facility, a home health agency, a hospice, or the resident.

(d) The negotiated service agreement shall contain a description of the health care services to be provided and the name of the licensed nurse responsible for the implementation and supervision of the plan.

(e) Nursing procedures not included in the nurse aide or medication aide curriculums may be delegated by a

(continued)

licensed nurse to unlicensed direct care staff under the Kansas nurse practice act, K.S.A. 65-1124(m), and amendments thereto.

(f) Each facility shall be responsible for assuring that a licensed nurse is available on-site or by telephone to provide immediate direction to medication aides and nurse aides for residents who have unscheduled needs. The licensed nurse may be employed by the facility or by a home health agency or a hospice.

(g) Skilled nursing services.

(1) When the operator of the facility is a licensed nurse, skilled nursing services may be provided based on the competency and licensure of the nurse.

(2) When the operator of the facility is not a licensed nurse, skilled nursing care may be provided on an intermittent or short-term basis or, if limited in scope, a regular basis.

(3) The licensed nurse providing the skilled nursing service shall document the service and the outcome of the service in each resident's record.

(4) A physician's order for the skilled nursing service shall be included in the resident's record in the facility. A copy of the physician's order from a home health agency or a hospice may be used.

(5) The licensed nurse providing the skilled service shall arrange for availability of a licensed nurse by telephone to meet unscheduled needs related to the skilled nursing service.

(6) A licensed nurse may provide wellness and health monitoring as specified in the resident's negotiated service agreement.

(h) Restraints. The resident shall be free from any physical restraints imposed for the purposes of discipline or convenience, and not required to treat the resident's clinical symptoms.

(1) The use of physical restraints shall include the following:

(A) A licensed nurse on duty 24 hours a day, seven days a week to assess and monitor the need for continued use of the physical restraint;

(B) a written physician's order that includes the type of restraint to be applied, the duration of the application, and the clinical justification for the use of the restraint;

(C) evidence that the resident is released from the restraint, exercised, and provided the opportunity to be toileted at least every two hours;

(D) regular monitoring of each resident in restraints at intervals of no fewer than 30 minutes;

(E) documentation in the resident's clinical record indicating that less restrictive methods to ensure the health and safety of the resident were not effective or appropriate; and

(F) evaluation of the continued necessity for the physical restraint at least every three months, and more frequently, if there is a significant change in the resident's condition.

(2) Equipment used for physical restraints shall be designed to assure the safety and dignity of the resident.

(3) Staff who provide care to residents in physical restraints shall be trained in the appropriate application of the restraint and the care of the resident who is physically restrained.

(4) In the event of an emergency, a physical restraint may be applied following an assessment by a licensed nurse that indicates that the physical restraint is necessary to prevent the resident from harming that individual or other residents and staff members. A physician's approval shall be obtained within 12 hours of the application of any physical restraint. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-431. Dietary services. Each home-plus facility shall provide or coordinate the provision of dietary services to residents as specified in the resident's negotiated service agreement. (a) Staffing.

(1) The overall supervisory responsibility for dietetic services shall be the assigned responsibility of one employee.

(2) If the resident's negotiated service agreement includes the provision of a therapeutic diet, the diet served shall be based on written instructions from a physician or licensed dietitian.

(b) Each facility shall plan menus in advance and shall base the menus on "nutrition and your health: dietary guidelines for Americans," 4th edition, 1995, home and garden bulletin #232, published by the U.S. department of agriculture and the department of health and human services and hereby adopted by reference.

(c) Each facility shall prepare food using safe methods that conserve the nutritive value, flavor, and appearance, and shall attractively serve each food at the proper temperature.

(d) Each facility shall provide residents with menu plans on at least a weekly basis.

(e) Each facility shall establish a method to incorporate input by residents on the selection of food to be served and the scheduling of meal service.

(f) Each facility shall store food under safe and sanitary conditions.

(g) Each facility shall maintain at least a three-day supply of food to meet the requirements of the planned menus.

(h) A facility shall not store containers of poisonous compounds and cleaning supplies in the same area used for food storage, preparation, or serving.

(i) Each facility shall wash, rinse, and sanitize all table ware, kitchenware, and food preparation equipment in any of the following:

(1) A dishwashing machine;

(2) a three-compartment sink;

(3) three separate containers; or

(4) any combination of the above. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-432. Disaster and emergency preparedness.

(a) Each home-plus facility shall provide sufficient staff to promptly take residents who require assistance to the outside of the building in an emergency.

(b) Each facility shall have a detailed written emergency management plan to manage potential emergencies and disasters, including the following:

(1) Fire;

(2) flood;

(3) severe weather;

(4) tornado;

- (5) explosion;
 - (6) natural gas leak;
 - (7) lack of electrical or water service;
 - (8) missing residents; and
 - (9) any other potential emergency situations.
- (c) Each facility shall ensure disaster and emergency preparedness by performing the following:

(1) Orienting new employees and residents at the time of the employment or new residency to the facility's emergency management plan;

(2) periodically reviewing the plan with employees and residents; and

(3) every three months, conducting an emergency drill with staff and residents that includes evacuation of the building.

(d) The emergency management plan shall be available to staff, residents, and visitors. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-433. Infection control. (a) Each home-plus facility shall provide a safe, sanitary, and comfortable environment for residents.

(b) Each facility shall develop and implement policies and procedures to prevent and control the spread of infections. These policies and procedures shall include the following:

(1) Taking universal precautions to prevent the spread of blood-borne pathogens;

(2) hand washing;

(3) the laundering and proper handling of soiled and clean linens;

(4) providing food service sanitation;

(5) prohibiting employees with a communicable disease or infected skin lesions from coming in direct contact with any resident or resident's food, if direct contact transmits the disease;

(6) providing orientation of new employees and periodic employee in-service education on the control of infections in a health care setting;

(7) tuberculosis skin testing of each new resident and employee, as soon as residency or employment begins, unless the resident or employee can provide documentation of a previous significant reaction. Each facility shall follow the centers for disease control recommendations for "prevention and control of tuberculosis in facilities providing long-term care to the elderly," as published in morbidity and mortality weekly report, July 13, 1990, and hereby adopted by reference; and

(8) transferring a resident with an infectious disease to an appropriate health care facility if the home-plus facility is unable to provide the isolation precautions required to treat the infectious disease. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-434. Resident records. (a) Each home-plus facility shall maintain a record for each resident in accordance with accepted professional standards and practices.

(b) Each facility shall maintain each resident's records for at least five years after the death or discharge of the resident.

(c) In the case of a minor, the facility shall maintain the resident's records for five years after the resident reaches 18 years of age.

(d) Each facility shall keep confidential all information in the resident's records, regardless of form or storage methods of the records, except when release is required by any of the following:

(1) Transfer to another health care facility;

(2) law;

(3) third party payment contract;

(4) the resident or the resident's legal representative; or

(5) in the case of a deceased resident, the immediate heirs of the resident.

(e) Each facility shall safeguard resident record information against loss, destruction, fire, theft, or unauthorized use.

(f) The resident record shall contain at least the following information:

(1) The resident's name;

(2) the dates of admission and discharge;

(3) the admission agreement and any amendments;

(4) the functional capacity screens;

(5) the negotiated service agreement and any amendments;

(6) the name, address, and telephone number of the physician and dentist to be notified in an emergency;

(7) the name, address, and telephone number of the legal representative or individual of the resident's choice to be notified in the event of a significant change in condition;

(8) the physician's order, if the facility is managing the resident's medications and medical treatments;

(9) the records of drugs, biologicals, and treatments administered; and

(10) the documentation of all incidents, symptoms, and other indications of illness or injury, including the date, the time of occurrence, the action taken, and the results of action. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-435. Staff qualifications. (a) Each home-plus facility shall provide sufficient numbers of qualified personnel to ensure that residents receive the services and care specified in the negotiated service agreement.

(b) Employee records shall contain evidence of licensure, registration, or certification of full-time, part-time, and consultant staff.

(c) A health screening shall be performed on each employee no later than seven days after employment. A copy of this health screening shall be maintained in each employee's file.

(d) Tuberculosis skin testing of employees shall be performed in accordance with the centers for disease control recommendation in "prevention and control of tuberculosis in facilities providing long-term care to the elderly," as published in morbidity and mortality weekly report, July 13, 1990, and hereby adopted by reference. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-436. Medication management in home-plus facilities. (a) Self-administration of medications.

(1) Each resident may manage and self-administer the individual's own medications if an assessment by a li-

(continued)

censed nurse or physician has determined that the resident can perform this function safely and accurately.

(2) The assessment shall include an evaluation of the resident's physical, cognitive, and functional ability to manage that individual's own medications.

(3) The assessment shall be documented on the resident's clinical record.

(4) Each resident who self-administers medications may select medications to be administered by a licensed nurse employed by the facility, a home health agency, or hospice, or by a medication aide employed by the facility. The negotiated service agreement shall reflect this service and identify the licensed nurse responsible for management of the selected medications.

(5) Medication reminding may be performed by staff if the medications are selected by the resident. Medication reminding shall consist of the following:

(A) An inquiry as to whether the medication was taken; and

(B) verbal prompting to take medications.

(b) Each resident may self-administer medications with the use of prefilled medication reminder boxes or prefilled syringes, if an assessment performed by a licensed nurse has determined that the resident can safely and accurately administer the preselected medications using medication reminder boxes or prefilled syringes without further staff assistance. The licensed nurse may be employed by the facility, a home health agency, a hospice, or the resident.

(1) The assessment shall include an evaluation of the resident's physical, cognitive, and functional ability to safely and accurately administer the medications using medication reminder boxes or prefilled syringes.

(2) An assessment shall be performed either when the resident is admitted or before the resident begins to self-administer medications with assistance. An assessment shall also be performed following a significant change in condition and at least annually. Each assessment shall be maintained in the resident's clinical record.

(3) The licensed nurse or pharmacist who prefills the resident's medication boxes or syringes shall ensure that all drugs are selected and prepared in accordance with a physician's written order.

(4) The licensed nurse or pharmacist shall ensure that both of the following conditions are met:

(A) Medication reminder boxes are labeled with the resident's name and the date on which the box was prefilled.

(B) A label is placed on the medication box, or a medication administration record is provided to the resident, either of which includes the name and dosage of each drug and the time the drug is to be self-administered by the resident.

(5) Each resident who self-administers with assistance may request that selected medications be managed by a licensed nurse employed by the facility, a home health agency, or a hospice, or by a medication aide employed by the facility, if the resident believes that the resident is unable to perform this function safely.

(6) A licensed nurse employed by the facility, a home health agency, a hospice, or the resident shall develop a health services plan that provides directions to unli-

censed staff to report problems related to the resident's drug regimen.

(7) Medication reminding by staff shall be allowed, subject to the following conditions:

(A) Each medication is preselected for the resident by a licensed nurse, family member, or pharmacist.

(B) The medication reminding is limited to the following:

(i) Making inquiries as to whether medication was taken;

(ii) handing the appropriately labeled prefilled medication reminder box or syringe to the resident; and

(iii) opening the appropriately labeled prefilled medication reminder box if the resident is unable to open the container.

(C) Medication reminding does not include taking the medication out of the medication reminder box.

(c) Facility management of medications. When a facility is responsible for the management of a resident's medications, the facility shall ensure that all drugs are administered to each resident in accordance with a physician's written order. Each facility shall ensure that all of the following conditions are met:

(1) All drugs, except parenteral drugs, are administered by physicians, licensed nurses, or medication aides.

(2) Parenteral drugs are administered only by a physician or licensed nurse.

(3) The drugs are prepared and administered by the same person.

(4) Each resident is identified before administration of the drug.

(5) The dose administered is recorded on the resident's individual drug record by the person who administered the drug.

(d) Medications may be preselected or administered by family members or friends gratuitously pursuant to K.S.A. 65-1124(a), and amendments thereto.

(e) Ordering and labeling.

(1) All drugs and biologicals administered by the facility or preselected for residents by a licensed nurse shall be ordered pursuant to a written order issued by a physician.

(2) The dispensing pharmacist shall label each prescription container, pursuant to K.A.R. 68-7-14.

(3) Over-the-counter drugs. Each facility shall ensure that each over-the-counter drug delivered to the facility is in the original, unbroken manufacturer's package. A pharmacist or licensed nurse shall place the full name of the resident on the package. If over-the-counter drugs are removed from the original manufacturer's package, other than for administration, the pharmacist shall label the drug, as required for prescription drugs.

(4) Physicians, advanced registered nurse practitioners, and physician assistants shall give verbal orders for drugs only to a licensed nurse, pharmacist, or another physician. The licensed nurse, physician, or pharmacist shall immediately record the verbal order in the resident's clinical record. The physician shall countersign all verbal orders within seven working days after the receipt of the verbal order.

(5) Each resident who self-administers medication may request that the facility staff reorder that resident's

medications from a pharmacy of the resident's choice. Staff who perform this function shall be authorized to administer medications.

(f) Storage.

(1) All drugs managed by the facility shall be stored safely, securely, and properly, following manufacturer's recommendations or those of the supplier and in accordance with federal and state laws and regulations.

(2) Each resident who self-administers medication or self-administers medication with assistance shall store the medications in a place that is accessible only to the resident and persons authorized to administer medications.

(3) Each resident may request that the facility store a medication or medications when the resident is unable to provide proper storage as recommended by the manufacturer or pharmacy provider.

(4) All drugs and biologicals managed by the facility shall be stored in a locked cabinet or locked medication cart, and only those persons authorized to administer medications shall have access to the keys to the cabinet or cart.

(5) Each facility shall ensure that there are records maintained of receipt and disposition of all controlled substances managed by the facility so that there can be an accurate reconciliation.

(g) Records. Each facility shall ensure that the following items are documented in the clinical records of all residents who self-administer medications with assistance or for whom the facility manages medications:

- (1) Physician orders for medications;
- (2) the pharmacy provider of the resident's choice;
- (3) any known drug allergies;
- (4) the date and time medications were selected for residents who required assistance with self-administration of medications; and
- (5) the date and time medications were administered to residents.

(h) Drug regimen review.

(1) Each resident who self-administers any medication shall be offered the opportunity to have a drug review conducted by a pharmacist or licensed nurse on a monthly basis. If the resident refuses this service, the facility shall offer the service each time the resident experiences a significant change in condition or at least annually. Each facility shall document the resident's decision in the resident's clinical record.

(2) A pharmacist or licensed nurse shall conduct a drug regimen review on a monthly basis for all residents who self-administer their medications with assistance and those residents whose medications are managed by the facility.

(3) A drug regimen review shall identify any potential or current drug-related problem, including the following:

- (A) Lack of clinical indication for use of any drug;
- (B) subtherapeutic dose of any drug;
- (C) failure of the resident to receive an ordered drug;
- (D) drugs administered in excessive dosage, including duplicate therapy;
- (E) adverse drug reactions;
- (F) drug interactions; and
- (G) lack of adequate monitoring.

(4) The facility shall report each variance identified in the drug regimen review to the resident's physician.

(5) The facility shall maintain documentation of any drug regimen review performed in the resident's record. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

28-39-437. Construction; general requirements.

(a) Each home-plus facility shall be designed, constructed, equipped, and maintained to protect the health and safety of residents, personnel, and the public.

(b) All new construction, renovation, remodeling, and changes in building use in existing buildings shall comply with building and fire codes, ordinances, and regulations enforced by city, county, and state jurisdictions, including the state fire marshal.

(c) Site location requirements. Each facility shall meet the following requirements:

- (1) Be served by all-weather roads and streets;
- (2) be free from noxious or hazardous smoke or fumes;
- (3) be located at least 4,000 feet from concentrated livestock operations, including feedlots and shipping and holding pens;
- (4) be free of flooding for a 100-year period; and
- (5) be sufficient in area and configuration to accommodate the building or buildings, drives, parking, sidewalks, and outdoor recreation area.

(d) General building exterior.

(1) Each exterior pathway or access to the facility's common use areas and entrance or exit ways shall meet the following requirements:

- (A) Be made of hard, smooth material;
- (B) be barrier free; and
- (C) be maintained in good repair.

(2) Outdoor recreation areas shall be provided and available to residents.

(3) The exterior of the building and the grounds shall be maintained in good repair and in a clean, safe, and orderly manner.

(4) Each facility house address number shall be posted on the exterior of the facility using at least three-inch-high numbers. Address numbers shall be posted on any mailbox located away from the facility.

(e) General building interior.

(1) Resident bedrooms.

(A) Each resident shall be provided a separate bed with the following:

- (i) A clean, comfortable mattress; and
- (ii) bedding appropriate to the weather.

(B) Each facility shall provide visual privacy for each resident in a multi-bedroom.

(C) A space of at least three feet shall be provided between beds in a multi-bedroom.

(D) Each resident shall be provided with space for the storage of personal items.

(E) There shall be at least one window to the outside.

(F) Resident bedrooms shall not be located in a basement.

(G) Bedrooms for residents who require physical assistance in transferring from a bed to a wheelchair shall be located on the first floor of the facility.

(continued)

(2) Toilet facilities.

(A) There shall be at least one toilet room with a lavatory, and a shower or tub, for each five individuals living in the facility.

(B) The facility shall provide grab bars or equivalent assistive devices at each toilet, tub, or shower if required for resident safety.

(C) Showers and tubs shall have nonslip surfaces or be provided with nonslip mats for resident safety.

(3) Living, dining, and activity areas. Each facility shall provide living, dining, and activity areas that meet the following requirements:

(A) Are well lighted;

(B) are adequately furnished;

(C) have sufficient space to accommodate all resident activities; and

(D) are located in an area or areas accessible to all residents.

(4) Laundry area.

(A) If the facility processes laundry, the facility shall provide a work area with a one-way flow of laundry from a soiled area to a clean area.

(B) The laundry area shall not be located in the same room where preparation and service of food occur.

(C) Each facility shall store laundry in a manner that prevents odors and the spread of disease.

(f) Sanitation and maintenance. Each facility shall provide a safe, functional, sanitary, and comfortable environment for residents, staff, and the public.

(g) Public telephone. There shall be a public telephone locally accessible to individuals with disabilities in a private area that allows a resident or another individual to conduct a private conversation.

(h) The heating, air conditioning, and ventilation systems shall maintain a year-round indoor temperature range of 70°F to 85°F in the resident use areas.

(i) Plumbing and piping systems.

(1) Backflow prevention devices or vacuum breakers shall be installed on fixtures to which hoses or tubing can be attached.

(2) Water distribution systems shall be arranged to provide hot water at hot water outlets at all times. The temperature of hot water shall range between 98°F and 120°F at showers, tubs, and lavatories accessible to residents.

(j) Each facility shall ensure that residents who desire to receive mail without staff intervention may do so. (Authorized by and implementing K.S.A. 39-932; effective Oct. 8, 1999.)

Clyde D. Graeber
Secretary of Health
and Environment

Doc. No. 024306

INDEX TO ADMINISTRATIVE REGULATIONS

This index lists in numerical order the new, amended and revoked administrative regulations and the volume and page number of the *Kansas Register* issue in which more information can be found. Temporary regulations are designated with a (T) in the Action column. This cumulative index supplements the index to the 1997 Volumes of the *Kansas Administrative Regulations* and the 1999 Supplement to the *Kansas Administrative Regulations*.

AGENCY 1: DEPARTMENT OF ADMINISTRATION

Reg. No.	Action	Register
1-1-5	New	V. 18, p. 1337
1-2-30	Amended	V. 18, p. 1337
1-2-74	New	V. 18, p. 1337
1-2-84	Amended	V. 18, p. 1337
1-2-84a	New	V. 18, p. 1337
1-2-84b	New	V. 18, p. 1338
1-4-8	Amended	V. 18, p. 1338
1-5-22	Amended	V. 18, p. 1338
1-6-25	Amended	V. 18, p. 1338
1-6-32	Amended	V. 18, p. 1339
1-8-6	Amended	V. 18, p. 1339
1-9-2	Amended	V. 18, p. 1340
1-9-19a	Amended	V. 18, p. 1341
1-9-25	Amended	V. 18, p. 1342
1-10-10	New	V. 18, p. 1344
1-10-11	New	V. 18, p. 1345
1-16-18	Amended	V. 18, p. 869

1-16-18a Amended V. 18, p. 869
1-18-1a Amended V. 18, p. 871

AGENCY 4: DEPARTMENT OF AGRICULTURE

Reg. No.	Action	Register
4-20-11	Amended	V. 18, p. 418
4-20-15	New	V. 18, p. 418
4-21-1 through 4-21-6	New	V. 18, p. 418-420

AGENCY 7: SECRETARY OF STATE

Reg. No.	Action	Register
7-31-1 through 7-31-4	Revoked	V. 18, p. 672
7-40-1	New	V. 18, p. 1148

AGENCY 9: ANIMAL HEALTH DEPARTMENT

Reg. No.	Action	Register
9-20-4	New	V. 18, p. 161
9-29-6	Amended	V. 18, p. 895

AGENCY 11: STATE CONSERVATION COMMISSION

Reg. No.	Action	Register
11-9-1 through 11-9-10	New	V. 18, p. 79, 80

AGENCY 17: STATE BANK COMMISSIONER

Reg. No.	Action	Register
17-24-1	New	V. 18, p. 956
17-24-2	New	V. 18, p. 956

AGENCY 22: STATE FIRE MARSHAL

Reg. No.	Action	Register
22-19-1	Amended	V. 18, p. 1170
22-19-2	Amended	V. 18, p. 1170
22-19-3	Amended	V. 18, p. 1171
22-19-4a	New	V. 18, p. 1171

AGENCY 25: DEPARTMENT OF AGRICULTURE (KANSAS STATE GRAIN INSPECTION)

Reg. No.	Action	Register
25-5-1	New	V. 18, p. 53

AGENCY 26: DEPARTMENT ON AGING

Reg. No.	Action	Register
26-1-2	Amended	V. 18, p. 188
26-1-4	Amended	V. 18, p. 544
26-1-6	Amended	V. 18, p. 544
26-1-9	New	V. 18, p. 188

AGENCY 27: STATE CORPORATION COMMISSION (KANSAS ENERGY OFFICE)

Reg. No.	Action	Register
27-2-1	Revoked	V. 18, p. 231

AGENCY 28: DEPARTMENT OF HEALTH AND ENVIRONMENT

Reg. No.	Action	Register
28-1-6	Amended	V. 18, p. 953
28-1-25	Revoked	V. 18, p. 105
28-4-330 through 28-4-343	New (T)	V. 18, p. 1058-1070
26-16-28b through 28-16-28f	Amended	V. 18, p. 1021-1033
28-19-50	Revoked	V. 18, p. 50
28-19-52	Revoked	V. 18, p. 50
28-19-201	Amended	V. 18, p. 106
28-19-650	New	V. 18, p. 50
28-19-720	Amended	V. 18, p. 782
28-19-735	Amended	V. 18, p. 782
28-19-750	Amended	V. 18, p. 782
28-19-751	Revoked	V. 18, p. 1099
28-19-752	Revoked	V. 18, p. 1099
28-19-752a	New	V. 18, p. 1099
28-23-81 through 28-23-89	Revoked	V. 18, p. 1099
28-19-751	Revoked	V. 18, p. 1099
28-19-752	Revoked	V. 18, p. 1099

28-19-752a	New	V. 18, p. 1099
28-23-81		
through		
28-23-89	Revoked	V. 18, p. 1099
28-29-3	Amended	V. 18, p. 1345
28-29-25a	New	V. 18, p. 1346
28-29-25b	New	V. 18, p. 1347
28-29-25c	New	V. 18, p. 1348
28-29-25e	New	V. 18, p. 1350
28-29-25f	New	V. 18, p. 1351
28-29-26	Revoked	V. 18, p. 673
28-31-1	Amended	V. 18, p. 673
28-31-2	Amended	V. 18, p. 673
28-31-3	Amended	V. 18, p. 674
28-31-4	Amended	V. 18, p. 674
28-31-6	Amended	V. 18, p. 678
28-31-8	Amended	V. 18, p. 679
28-31-8b	Amended	V. 18, p. 680
28-31-9	Amended	V. 18, p. 680
28-31-10	Amended	V. 18, p. 681
28-31-12	Amended	V. 18, p. 681
28-31-13	Amended	V. 18, p. 682
28-31-14	Amended	V. 18, p. 682
28-31-15	New	V. 18, p. 682
28-31-16	New	V. 18, p. 682
28-36-10		
through		
28-36-18	Revoked	V. 18, p. 1099
28-36-20		
through		
28-36-29	Revoked	V. 18, p. 1099, 1100
28-36-101		
through		
28-36-108	New	V. 18, p. 1100-1102
28-36-10		
through		
28-36-18	Revoked	V. 18, p. 1099
28-36-20		
through		
28-36-29	Revoked	V. 18, p. 1099, 1100
28-36-101		
through		
28-36-108	New	V. 18, p. 1100-1102
28-50-1	Amended	V. 18, p. 1353
28-50-2	Amended	V. 18, p. 1355
28-50-4	Amended	V. 18, p. 1356
28-50-5	Amended	V. 18, p. 1356
28-50-6	Amended	V. 18, p. 1356
28-50-7	Revoked	V. 18, p. 1358
28-50-8	Amended	V. 18, p. 1358
28-50-9	Amended	V. 18, p. 1359
28-50-10	Amended	V. 18, p. 1363
28-50-14	Amended	V. 18, p. 1363
28-65-1	Amended	V. 18, p. 682
28-65-2	Amended	V. 18, p. 683
28-65-3	Amended	V. 18, p. 683

AGENCY 30: SOCIAL AND REHABILITATION SERVICES

Reg. No.	Action	Register
30-2-12	Amended	V. 18, p. 271
30-2-16	Amended	V. 18, p. 895
30-4-64	Amended	V. 18, p. 271
30-6-59	Revoked	V. 18, p. 895
30-6-86	Amended	V. 18, p. 895
30-6-103	Amended	V. 18, p. 896
30-14-30	Amended	V. 18, p. 896

AGENCY 40: KANSAS INSURANCE DEPARTMENT

Reg. No.	Action	Register
40-2-26	Amended	V. 18, p. 1058
40-3-33	Amended	V. 18, p. 1016
40-4-34	Amended	V. 18, p. 124
40-4-35	Amended (T)	V. 18, p. 358
40-4-35	Amended	V. 18, p. 1148

AGENCY 44: DEPARTMENT OF CORRECTIONS

Reg. No.	Action	Register
44-1-103	Amended	V. 18, p. 390

AGENCY 45: KANSAS PAROLE BOARD

Reg. No.	Action	Register
45-9-4	New (T)	V. 18, p. 1034

AGENCY 51: DEPARTMENT OF HUMAN RESOURCES—DIVISION OF WORKERS COMPENSATION

Reg. No.	Action	Register
51-9-7	Amended	V. 18, p. 1170

AGENCY 60: BOARD OF NURSING

Reg. No.	Action	Register
60-3-101	Amended	V. 18, p. 51
60-3-106	Amended	V. 18, p. 51
60-7-101	Amended	V. 18, p. 52

AGENCY 65: BOARD OF EXAMINERS IN OPTOMETRY

Reg. No.	Action	Register
65-9-1	Amended	V. 18, p. 357
65-10-2	Amended	V. 18, p. 357
65-11-3	Amended	V. 18, p. 357

AGENCY 68: BOARD OF PHARMACY

Reg. No.	Action	Register
68-2-22	New	V. 18, p. 81
68-3-5	New	V. 18, p. 1309
68-3-6	New	V. 18, p. 1309
68-5-15	New	V. 18, p. 993
68-7-18	Amended	V. 18, p. 994
68-7-19	Amended	V. 18, p. 994
68-11-1	Amended	V. 18, p. 81
68-14-1	Amended	V. 18, p. 1019
68-14-2		
through		
68-14-5	Amended	V. 18, p. 996, 997
68-14-7	Amended	V. 18, p. 997
68-14-8	New	V. 18, p. 998
68-15-1	New	V. 18, p. 998
68-15-2	New	V. 18, p. 1309
68-15-4	New	V. 18, p. 1309
68-20-10a	New	V. 18, p. 81
68-20-15a	Amended	V. 18, p. 82
68-20-17	Amended	V. 18, p. 83
68-20-19	Amended	V. 18, p. 83

AGENCY 71: KANSAS DENTAL BOARD

Reg. No.	Action	Register
71-3-7	New	V. 18, p. 104
71-6-1		
through		
71-6-6	New	V. 18, p. 104, 105

AGENCY 74: BOARD OF ACCOUNTANCY

Reg. No.	Action	Register
74-4-10	Amended	V. 18, p. 1238
74-5-103	Amended	V. 18, p. 1238
74-5-104	Amended	V. 18, p. 1238
74-5-202	Amended	V. 18, p. 1239
74-5-203	Amended	V. 18, p. 1239
74-5-406	Amended	V. 18, p. 1240
74-11-6	Amended	V. 18, p. 1240
74-12-1	Amended	V. 18, p. 581

AGENCY 80: KANSAS PUBLIC EMPLOYEES RETIREMENT SYSTEM

Reg. No.	Action	Register
80-1-1	Amended	V. 18, p. 1230
80-1-2	Amended	V. 18, p. 1230
80-1-3	Amended	V. 18, p. 1230
80-1-4	Revoked	V. 18, p. 1230
80-1-5	Amended	V. 18, p. 1230
80-1-6	Amended	V. 18, p. 1231
80-1-9	Amended	V. 18, p. 1231
80-1-10	Amended	V. 18, p. 1231
80-1-11	Amended	V. 18, p. 1231
80-1-12	Revoked	V. 18, p. 1231
80-2-1	Amended	V. 18, p. 1231
80-3-1	Revoked	V. 18, p. 1232
80-3-2	Revoked	V. 18, p. 1232
80-3-4	Amended	V. 18, p. 1232
80-3-5	Revoked	V. 18, p. 1232
80-3-6	Revoked	V. 18, p. 1232
80-3-8	Revoked	V. 18, p. 1232
80-3-9	Amended	V. 18, p. 1232
80-3-13	Revoked	V. 18, p. 1232
80-3-15	Amended	V. 18, p. 1232
80-3-16	Amended	V. 18, p. 1232

80-4-1	Amended	V. 18, p. 1233
80-4-2	Revoked	V. 18, p. 1233
80-4-3	Revoked	V. 18, p. 1233
80-4-4	Amended	V. 18, p. 1233
80-4-5	Revoked	V. 18, p. 1233
80-4-6	Revoked	V. 18, p. 1233
80-5-1	Amended	V. 18, p. 1233
80-5-2	Revoked	V. 18, p. 1233
80-5-3	Revoked	V. 18, p. 1233
80-5-6	Amended	V. 18, p. 1233
80-5-7	Revoked	V. 18, p. 1234
80-5-9	Amended	V. 18, p. 1234
80-5-10	Amended	V. 18, p. 1234
80-5-11	Amended	V. 18, p. 1234
80-5-12	Revoked	V. 18, p. 1234
80-5-13	Amended	V. 18, p. 1234
80-5-14	Revoked	V. 18, p. 1234
80-5-15	Amended	V. 18, p. 1234
80-5-16	Amended	V. 18, p. 1235
80-5-18	Amended	V. 18, p. 1235
80-7-1	Amended	V. 18, p. 1235
80-8-2	Amended	V. 18, p. 1236
80-8-7	Amended	V. 18, p. 1236
80-50-1	Revoked	V. 18, p. 1236
80-50-2	Amended	V. 18, p. 1236
80-50-3	Amended	V. 18, p. 1236
80-50-4	Revoked	V. 18, p. 1236
80-50-5	Revoked	V. 18, p. 1236
80-50-6	Amended	V. 18, p. 1236
80-50-8	Revoked	V. 18, p. 1237
80-51-1	Revoked	V. 18, p. 1237
80-51-2	Revoked	V. 18, p. 1237
80-51-3	Revoked	V. 18, p. 1237
80-51-4	Amended	V. 18, p. 1237
80-51-5	Revoked	V. 18, p. 1237
80-51-7	Revoked	V. 18, p. 1237
80-52-1	Revoked	V. 18, p. 1237
80-52-2	Revoked	V. 18, p. 1237
80-52-3	Revoked	V. 18, p. 1237
80-53-2		
through		
80-53-6	Revoked	V. 18, p. 1237
80-54-1		
through		
80-54-4	Revoked	V. 18, p. 1237
80-55-1		
through		
80-55-4	Revoked	V. 18, p. 1237
80-55-8	Amended	V. 18, p. 1237

AGENCY 82: STATE CORPORATION COMMISSION

Reg. No.	Action	Register
82-1-221a	New	V. 18, p. 231
82-1-221b	New	V. 18, p. 232
82-1-228	Amended	V. 18, p. 232
82-1-235	Amended	V. 18, p. 233
82-3-101	Amended	V. 18, p. 273
82-3-401b	New	V. 18, p. 276
82-3-408	Amended	V. 18, p. 276
82-3-900		
through		
82-3-908	New	V. 18, p. 276, 277
82-11-3	Amended	V. 18, p. 234
82-11-4	Amended	V. 18, p. 234
82-11-9	Amended	V. 18, p. 238
82-11-10	Amended	V. 18, p. 239
82-11-11	New	V. 18, p. 239
82-12-2	Amended	V. 18, p. 239

AGENCY 86: REAL ESTATE COMMISSION

Reg. No.	Action	Register
86-1-11	Amended	V. 18, p. 1291

AGENCY 91: DEPARTMENT OF EDUCATION

Reg. No.	Action	Register
91-31-16	Amended	V. 18, p. 1171
91-31-18	Amended	V. 18, p. 1172
91-31-19	Amended	V. 18, p. 1309
91-31-24	Amended	V. 18, p. 1173

AGENCY 99: DEPARTMENT OF AGRICULTURE—DIVISION OF WEIGHTS AND MEASURES

Reg. No.	Action	Register
99-25-1	Amended	V. 18, p. 189

(continued)

AGENCY 100: BOARD OF HEALING ARTS

Reg. No.	Action	Register
100-11-5	Revoked	V. 18, p. 1230
100-24-3	New	V. 18, p. 483

**AGENCY 102: BEHAVIORAL SCIENCES
REGULATORY BOARD**

Reg. No.	Action	Register
102-4-10a	Amended (T)	V. 18, p. 1035

**AGENCY 105: BOARD OF INDIGENTS'
DEFENSE SERVICES**

Reg. No.	Action	Register
105-1-1	Amended	V. 18, p. 1141
105-2-1	Amended	V. 18, p. 1142
105-3-1	Amended	V. 18, p. 1142
105-3-2	Amended	V. 18, p. 1142
105-3-4	Revoked	V. 18, p. 1143
105-3-5	Amended	V. 18, p. 1143
105-3-8	Revoked	V. 18, p. 1143
105-3-9	Amended	V. 18, p. 1143
105-3-11	Amended	V. 18, p. 1144
105-3-12	Amended	V. 18, p. 1144
105-5-2	Amended	V. 18, p. 1144
105-5-3	Amended	V. 18, p. 1144
105-5-6	Amended	V. 18, p. 1144
105-5-7	Amended	V. 18, p. 1145
105-5-8	Amended	V. 18, p. 1145
105-6-2	Amended	V. 18, p. 1145
105-7-2	Amended	V. 18, p. 1146
105-7-4	through	
105-7-9	Amended	V. 18, p. 1146
105-8-1	Amended	V. 18, p. 1146
105-8-2	Amended	V. 18, p. 1146
105-8-3	Amended	V. 18, p. 1146
105-10-1a	Amended	V. 18, p. 1146
105-10-3	Amended	V. 18, p. 1147
105-10-5	Amended	V. 18, p. 1147
105-21-3	Amended	V. 18, p. 1147
105-21-6	Amended	V. 18, p. 1147
105-31-4	Revoked	V. 18, p. 1147

AGENCY 111: KANSAS LOTTERY

A complete index listing all regulations filed by the Kansas Lottery can be found in the Vol. 17, No. 53, December 31, 1998 issue of the Kansas Register. The Kansas Lottery regulations listed below were published after December 31, 1998.

Reg. No.	Action	Register
111-1-5	Amended	V. 18, p. 451
111-2-4	Amended	V. 18, p. 1133
111-2-30	Amended	V. 18, p. 1133
111-2-43	through	
111-2-65	Revoked	V. 18, p. 330

111-2-67	through	
111-2-71	Revoked	V. 18, p. 330, 331
111-2-74	Revoked	V. 18, p. 331
111-2-75	Revoked	V. 18, p. 331
111-2-76	Revoked	V. 18, p. 331
111-2-80	New	V. 18, p. 54
111-2-81	New	V. 18, p. 14
111-2-82	New	V. 18, p. 55
111-2-83	New	V. 18, p. 55
111-2-84	Amended	V. 18, p. 773
111-2-85	New	V. 18, p. 125
111-2-86	New	V. 18, p. 125
111-2-87	New	V. 18, p. 331
111-2-88	through	
111-2-93	New	V. 18, p. 451-453
111-3-1	Amended	V. 18, p. 956
111-3-14	Amended	V. 18, p. 957
111-3-21	Amended	V. 18, p. 958
111-3-22	Amended	V. 18, p. 958
111-4-1364	through	
111-4-1380	New	V. 18, p. 14-19
111-4-1381	through	
111-4-1396	New	V. 18, p. 55-59
111-4-1384	Amended	V. 18, p. 958
111-4-1397	through	
111-4-1412	New	V. 18, p. 125-129
111-4-1413	through	
111-4-1430	New	V. 18, p. 332-336
111-4-1423	Amended	V. 18, p. 453
111-4-1431	through	
111-4-1443	New	V. 18, p. 454-457
111-4-1444	through	
111-4-1468	New	V. 18, p. 773-779
111-4-1457	Amended	V. 18, p. 958
111-4-1469	through	
111-4-1485	New	V. 18, p. 959-963
111-4-1473	Amended	V. 18, p. 1305
111-4-1481	Amended	V. 18, p. 1305
111-4-1485	Amended	V. 18, p. 1306
111-4-1486	through	
111-4-1500	New	V. 18, p. 1133-1137
111-4-1501	through	
111-4-1508	New	V. 18, p. 1306-1308
111-5-24	Amended	V. 18, p. 130
111-5-28	Amended	V. 18, p. 130
111-5-31	Amended	V. 18, p. 457
111-5-75	New	V. 18, p. 59
111-5-76	New	V. 18, p. 457

111-7-66	Amended	V. 18, p. 1137
111-7-76	Amended	V. 18, p. 1137
111-7-77	Amended	V. 18, p. 1137
111-7-78	Amended	V. 18, p. 1138
111-7-78a	New	V. 18, p. 1138
111-7-80	Amended	V. 18, p. 1138
111-7-80a	New	V. 18, p. 1139
111-7-81	Amended	V. 18, p. 1140
111-7-82	Amended	V. 18, p. 1141
111-7-83	Amended	V. 18, p. 1141
111-7-134	Amended	V. 18, p. 336

111-9-97	through	
111-9-102	New	V. 18, p. 337
111-9-103	through	
111-9-108	New	V. 18, p. 963, 964
111-9-106	Amended	V. 18, p. 1308

**AGENCY 112: KANSAS RACING AND
GAMING COMMISSION**

Reg. No.	Action	Register
112-10-6	Amended	V. 18, p. 954

**AGENCY 115: DEPARTMENT OF
WILDLIFE AND PARKS**

Reg. No.	Action	Register
115-2-1	Amended	V. 18, p. 1019
115-4-13	Amended	V. 18, p. 1020
115-7-1	Amended	V. 18, p. 1334
115-7-5	Amended	V. 18, p. 1334
115-11-2	Amended	V. 18, p. 484
115-16-4	Amended	V. 18, p. 780
115-17-21	New	V. 18, p. 781
115-18-4	Amended	V. 18, p. 1334
115-18-7	Amended	V. 18, p. 1335
115-18-13	Amended	V. 18, p. 1336
115-18-14	Amended	V. 18, p. 1336
115-30-10	Amended	V. 18, p. 781

**AGENCY 117: REAL ESTATE
APPRAISAL BOARD**

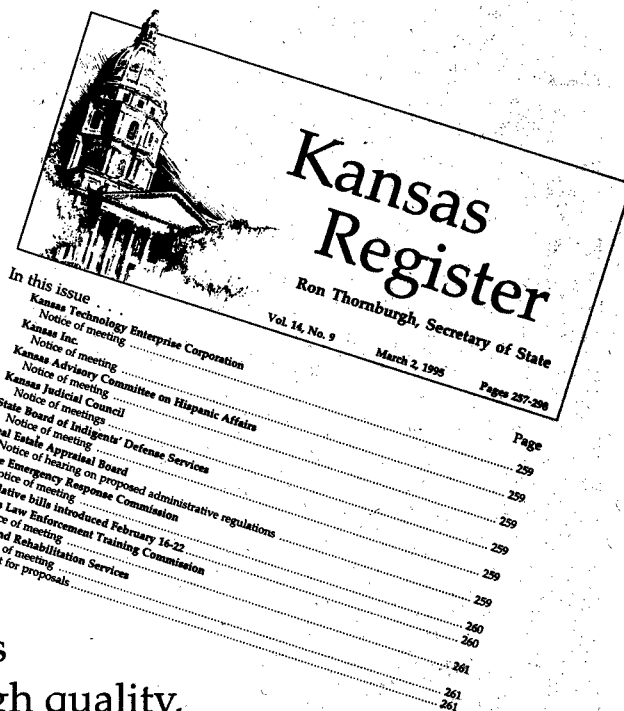
Reg. No.	Action	Register
117-2-1	Amended	V. 18, p. 295
117-2-2	Amended	V. 18, p. 295
117-3-1	Amended	V. 18, p. 296
117-3-2	Amended	V. 18, p. 296
117-4-1	Amended	V. 18, p. 297
117-4-2	Amended	V. 18, p. 298
117-6-1	Amended	V. 18, p. 955
117-8-1	Amended	V. 18, p. 995

**AGENCY 118: KANSAS STATE
HISTORICAL SOCIETY**

Reg. No.	Action	Register
118-4-1	through	
118-4-4	New	V. 18, p. 672, 673

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